



Virginia International Terminals, LLC Is Requesting Proposals

To Provide

**Transportation Management Services**

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Proposals are due by 2:00 PM, EDT, September 8, 2015

**REQUEST FOR PROPOSALS**

Issue Date:..... August 24, 2015

RFP#: ..... 2016-03-VIT

Title: .....Transportation Management Services

Issuing Agency: ..... Virginia International Terminals, LLC  
600 World Trade Center  
Norfolk, Virginia 23510

Electronic Versions of Proposals Will Be Received Until: ...2:00 PM, EDT on September 8, 2015

All Inquiries for Information Should Be Directed To: ..... Millard Grant  
E-Mail Address: proposals@vit.org



**TRANSMITTAL PAGE**

Virginia International Terminals, LLC (VIT) is seeking proposals for implementing Transportation Management Services support for its transportation needs. Electronic proposals will be received until 2:00 p.m., local prevailing time, September 8, 2015. Proposals and all other correspondence, including questions, shall be sent electronically to [proposals@vit.org](mailto:proposals@vit.org) to the attention of Millard Grant, Senior Contract Specialist. All email communications shall contain "RFP 2016-03-VIT" in the subject line followed by the Respondent's name. Late proposals will not be accepted. Questions may only be submitted electronically no later than 2:00 p.m., local prevailing time, September 2, 2015.

A copy of the complete Request for Proposals may be obtained from the following website <http://www.portofvirginia.com/about/policies/procurement/>.

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

Name and Address of Firm:

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

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

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

FIN # / FEN #: \_\_\_\_\_

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

Telephone Number: \_\_\_\_\_

Email: \_\_\_\_\_

## **Introduction and Background:**

The Virginia Port Authority (VPA) owns and or leases several Marine Terminals known as Norfolk International Terminals, Portsmouth Marine Terminal, Newport News Marine Terminal, the Port of Richmond and an inland facility known as Virginia Inland Port. VPA through its operating arm, Virginia International Terminals, LLC runs the day to day operations of VPA's owned or leased terminals identified above. VIT as a part of its operational responsibilities offers Drayage Services to VIT's ship line customers between VPA's owned or operated Terminal locations, local rail yards in Hampton Roads operated by CSX and NS and other locations as designated from time to time by VIT. VIT's subsidiary known as the Hampton Roads Chassis Pool II, LLC (HRCPII) operates the Chassis Pool from which motor carriers lease chassis in order to move containerized freight, empty containers and tanks for VIT's customers which call on VPA's Marine Terminals. The purpose of this solicitation is to award a contract to a common motor carrier and property broker/Transportation Manager, licensed by the Surface Transportation Board of the Department of Transportation ("STB") and to regularly manages various types of shipments, which may include movement via rail using trailers and containers on flat cars, container chassis for delivery to and from VPA's ocean shipping ports, rail yards(s) and/or other designated drop off and pick up locations under its arrangements with various consignees and consignors.

### **I. Scope of Work (SOW)**

The Contractor shall provide common motor carrier and property brokerage services using Drayman to provide suitable equipment and qualified personnel to perform initial pickup and/or final delivery services of VIT's customer shipments between its Customers' locations, intermodal shipping ports, rail yard(s) and/or designated drop yards. The Contractor shall also provide repositioning of empty Chassis to ensure an adequate supply of chassis is available in order provide the appropriate level of service necessary for the volume based upon the schedule and volume of ship line freight provided by VIT.

#### **A. Drayage Service Lanes: (Provide service lane cost)**

Norfolk Southern (Portlock) to NIT Terminal  
NIT Terminal to Norfolk Southern (Portlock)

Norfolk Southern (Portlock) to PY Empty Yard (Portsmouth)

CSX (Pinnars Point – Portsmouth) to NIT Terminal  
NIT Terminal to CSX (Pinnars Point – Portsmouth)

CSX (Pinnars Point – Portsmouth) to PMT Terminal  
PMT Terminal to CSX (Pinnars Point – Portsmouth)

CSX (Pinnars Point – Portsmouth) to PY Empty Yard (Portsmouth)

PMT Terminal to NIT Terminal  
NIT Terminal to PMT Terminal

VIG Terminal to PMT Terminal  
PMT Terminal to VIG Terminal

VIG Terminal to NIT Terminal  
NIT Terminal to VIG Terminal

**B. Additional Categories:**

Hazardous/Tanks

Bob Tail

The Contractor awarded this contract shall warrant that it is willing and capable of and legally authorized to perform the services contemplated, including but not limited to any certificates, permits and insurance which may be required by the Surface Transportation Board, all other federal agencies and governmental authorities, and any state or local regulatory authorities.

The Contractor is encouraged to obtain the services of Draymen with trucks that meet the USEPA 2007 Heavy Duty On-Road Truck Emission standard

Contractor is encouraged to partner and/or subcontract for services they are not expert in, though the Contractor will be solely financially liable to VIT for any Service Level Agreement violations.

The Contractor shall provide a detailed and technical Hosting and Maintenance Plan (HMP). This plan should include proposed hardware and software, proposed hosting location and hosting plan details, proposed call center process, standard processes and emergency procedures, for review and approval by VIT.

Contractor shall provide detailed technical requirements for:

**C. Technical requirements**

- The Port's ability to transmit daily drayage and chassis repositioning needs electronically through EDI, API, or web service.
- The Port's ability to receive updates status upon drayage delivery via EDI, API, or web service
- The Port's ability to run reports over a specified period of time
- The Port requires the ability to obtain billing data reconciliation reports
- The Port requires billing data electronically (EDI)
- The Port requires Daily Status Reporting of containers and chassis

**II. Small Business Development Program**

VIT strongly encourages the participation of small, woman-owned and minority- owned businesses (SWAM) in all of their contracts. Accordingly, proposers are encouraged to

include SWAMs on their project teams.

While no specific goal has been set for this effort, both Ports expect all proposers to make a Good Faith Effort to comply with the Ports' policy.

### **III. Proposal Evaluation Criteria**

Each proposal shall be reviewed using the following criteria (weights in parentheses)

- Technical Requirements (The ability to transmit information electronically) (30%)
- Firm's Experience/Approach (40%)
- Cost (Non-Binding) Contractor's Mark-up (10%)
- SWaM Plan (Attachment A) (20%)

Each proposal will be reviewed and scored using the above criteria. At their discretion, VIT may elect to interview a short list of the highest ranked firms and re-evaluate the scores after these interviews or begin negotiations with the highest ranked firm without interviews.

### **IV. Contracting Requirements**

The Ports reserve the right to negotiate the terms of any contract resulting from this RFP process, and to alter the terms and conditions as may be required by local, state and federal agencies.

**The selected Contractor shall comply with the various requirements as set forth in:**

1. Drayage Services. Contractor agrees to offer to Drayman, from time to time, on a non-exclusive basis, trailers or containers on chassis, loaded or empty, repositioning of chassis for Drayman to transport between VIT's Customers and various intermodal shipping ports, rail yards or designated drop yards, or to and from such other points between which service may be required and Drayman is legally authorized to serve. Drayman shall accept said shipments and perform the drayage service in a prompt, competent and efficient manner within the generally-accepted service standards of the trucking industry and within any restrictions set by VIT.
2. Compensation to Drayman. Contractor and VIT shall establish mutually-acceptable contract rates before rendering specific drayage services and Drayman shall be paid for its services on the basis of such rates which are attached hereto in Appendix A. Any rates or charges which are not contained in the attached Appendix A shall be confirmed in writing or by facsimile transmission prior to performance - of drayage services, and properly signed by an authorized representative of both parties and attached hereto as addenda to Appendix A.
3. Payment. Contractor shall pay Drayman for its services within thirty (30) days of receipt of all necessary documentation, to be identified at acceptance of the load by Drayman, which may include the original bill of lading or shipping order, delivery receipt or invoice indicating the trailer number and control number, along with copies of all

equipment interchange receipts and inspection forms.

4. **Compliance With Laws.** With respect to the drayage services provided herein, Contractor shall ensure Draymen comply with all applicable laws, rules and regulations, including but not limited to those promulgated by the Interstate Commerce Commission, other Federal agencies and departments having jurisdiction and the various states in which the drayage services are performed. Contractor shall defend, indemnify, and hold VPA, VIT and HRCP II, harmless from and against any and all fines, penalties, judgments, and costs arising or resulting from Drayman's failure to comply with all such laws, rules and regulations.

5. **Equipment and Drivers.** Contractor shall ensure that the drayage services to be performed by Drayman shall be performed with properly qualified, trained and CDL licensed drivers, and equipment which is in good order, condition and repair and which meets with the Department of Transportation's standards and complies with Federal Safety Regulations, and all applicable state and local rules, ordinances and regulations. Contractor and/or Draymen shall be solely responsible for all expenses associated with the power equipment and accessories required to perform the services contemplated herein, including but not limited to all maintenance, supplies, oil, fuel, taxes, permits, licenses and insurance.

6. **Cargo Liability Insurance and Indemnity.** Contractor shall ensure that Drayman maintain in effect at all times cargo liability insurance with insurers and limits equal to or higher than the legally required limits with a minimum of Five Million Dollars (\$5,000,000.00) and Drayman shall have VPA, VIT and HRCP II named as additional insureds with any notice of cancellation or material modification of said insurance to be sent to VIT at least thirty (30) days in advance of the termination or modification date. Contractor shall furnish to VIT certificates of insurance evidencing such coverage.

7. Contractor shall defend, indemnity, and hold VPA, VIT and HRCP II harmless from all claims, demands, and causes of action for loss or destruction to property or loss arising from damage or delay in delivery of property, transported by Drayman for VPA, VIT or HRCP II under this Agreement while such property is in the possession of Drayman, or resulting from mis-delivery of same by Drayman, or from failure or neglect of Draymen to pick up and deliver same with reasonable promptness and dispatch.

8. **Independent Contractor.** Contractor warrants and represents that it is a lawfully licensed common motor carrier and property broker. This Agreement does not make Contractor an agent (except to the extent specifically set forth herein), a legal representative, joint venture, or partner of VIT for any purpose whatsoever. It is understood between the parties hereto that Contractor is to act as an independent contractor and is in no way authorized to make any contract, warranty or representation on behalf of VIT, or to create any obligation expressed or implied on behalf of VIT. It is expressly agreed and understood that Contractor shall not be considered under the provisions of this Agreement or otherwise as having any employment status with VIT, or as being entitled to partake in any plans, distributions, or benefits extended by Contractor to its employees. Contractor assumes full responsibility for payment of federal, state and local taxes or contributions or taxes for unemployment insurance, pensions, workers' compensation or other social security and related protection with respect to the persons

engaged in the performance of the services rendered hereunder and agrees to comply with applicable federal, state and local laws, ordinances, regulations and rules applicable thereto. Contractor does hereby indemnify and hold harmless VIT, VPA and HRCF II from any liability, loss or expense on account of Contractor's failure to comply with such applicable federal, state and local laws.

9. **Damage Claims.** Except as otherwise specifically provided herein, all claims for loss and damage and any salvage arising therefrom shall be handled and processed in accordance with 49 CFR 1005. Contractor agrees to acknowledge claims within thirty (30) days, and within sixty (60) days of receipt of claim to settle claim in full, deny, or make firm offer to settle. VIT reserves the right to withhold payment for common motor carrier and property broker services rendered where claim liability is disputed until TM and Drayman come to mutual understanding.

In the event there is a claim for shortage of cargo, Drayman shall not be held liable if the equipment interchange receipt clearly notes that the seal was not intact at the time the equipment was picked up at the port facility, rail yard or other location. Said notation must be properly signed by a representative of said pick up location.

10. **Trailer Interchange -** Contractor warrants that before Draymen enter a port facility, ocean carrier's drop yard or intermodal rail yard to pick up or deliver equipment in the performance of services hereunder, it shall have properly executed an equipment interchange agreement with the applicable ocean carrier, railroad, intermodal equipment provider including HRCF II. Contractor further warrants and represents that it and its Draymen will at all times, remain in compliance with the terms and conditions of said interchange agreement, including all applicable circulars, tariffs or rules which may be referenced therein. Contractor does hereby indemnify and hold harmless VPA, VIT and HRCF II from any liability, loss or expense on account of Drayman's failure to comply with the terms and conditions of any such interchange agreement, or breach of the warranties and representations contained with-in this Section 11.

11. **Choice of Law.** This Agreement shall be deemed executed in the Commonwealth of Virginia and shall be interpreted, in the event of a dispute arising hereunder, under the laws of Virginia. In the event that a dispute shall arise concerning the terms, conditions or performance under this Agreement, then the dispute shall be settled in the appropriate Virginia Court or the Federal District Court for the Commonwealth of Virginia.

12. **Notices.** All notices as required by any of the terms and conditions of this Agreement shall be deemed given with the notices prepared, adequately addressed and deposited in the United States mail, postage prepaid. Notices to VIT and TM are adequately addressed as follows:

Virginia International Gateway  
1000 Virginia International Gateway Blvd,  
Portsmouth, VA 23703  
Attention Vance Griffin

13. **Non-waiver.** Failure of either party to insist on performance of any term or



condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a waiver of such term, condition, right or privilege in the future.

14. Section Headings. All section headings in this Agreement are inserted for convenience only and shall not affect any construction or interpretation of this Agreement

15. Miscellaneous.

a. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid, or illegal.

b. Time is of the essence of this Agreement.

c. This Agreement shall be binding upon all successors and approved assigns of the parties and shall inure to the benefit of all such successors and approved assigns.

16. Preferred Form. This Agreement exclusively and completely states the rights and obligations of the parties hereto with respect to the subject matter hereof and supersedes all other agreements, oral or written, with respect to such subject matter.

**V. Schedule of Payment for Drayage Services**

VIT and Contractor shall agree on any rates for the Drayage Services. VIT will notify Contractor of any change in rates prior to pick-up of the individual load. Such confirmation shall be properly signed and dated by authorized representatives of both parties.

**VI. Cost (Non-Binding):**

- a. Provide rates for each drayage service lane including additional categories.
- b. Provide rate for services over and above drayage rates. (Contractor shall not reduce drayage rates offered to drivers without approval in writing from VIT).

**VII. Schedule (Tentative):**

The Ports have set a very aggressive schedule for this request for proposals in order to get a Contractor on board very quickly. The following expedited proposal submittal and review schedule is proposed:

RFP available	August 24, 2015
Questions due	September 2, 2015
Question responses posted	September 4, 2015
Proposals due	September 8, 2015
Port's selection	October 5, 2015

**VIII. Proposal Preparation And Submission Requirements:**

## **a. General Proposal Requirements:**

### RFP Response:

- In order to be considered for selection, Respondents must submit a complete response to this RFP. All distribution of documents, questions and answers will be sent by Offerors via email to [proposals@vit.org](mailto:proposals@vit.org). RFP responses must be received by 2:00 PM EDT, September 16, 2015. Responses shall be sent to [proposals@vit.org](mailto:proposals@vit.org).

The VIT's mail exchange server has a limit of 50 MB for incoming proposals. Respondents need to be aware that their internet service provider (ISP) may have a maximum server limits less than 50 MB, which could hinder proposals from being delivered to the VIT. If the Respondent's email message is too large it is permissible to send more than one email so long as each email is clearly identified i.e., (RFP 2016-03-VIT). VIT will not be responsible for proposals not received due to these limitations and no special consideration shall be given to such proposals. Any Respondent requesting confirmation of receipt of its proposal shall send the proposal via email return receipt requested.

If a Respondent's proposal is not received via email due to some fault of the VIT, then the Respondent will be required to provide evidence that the proposal was sent electronically prior to the closing day and time. Last minute submissions that go undelivered will be at the risk of the Respondent.

The Respondent shall make no other distribution of the proposal.

1. Proposals shall be signed by an authorized representative of the Respondent. All information requested shall be submitted. Failure to submit all information requested may result in the VIT requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals, which are substantially incomplete or lack key information, may be rejected by the VIT. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
2. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities and approach to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content. Proposals shall be single spaces, use a font size not less than 12 point, and be limited to a total of fifty (50) Letter (8.5" by 11") pages. The Transmittal page, Table of Contents, Attachment A or Attachment B do not count towards the fifty (50) page limit. Additionally, up to 3 11x17 foldouts for diagrams, tables, or figures will be accepted.

3. Only electronic versions of proposals will be received until 2:00 p.m., local prevailing time on, September 8, 2015, at [proposals@vit.org](mailto:proposals@vit.org) to the attention of Millard Grant, Senior Contract Specialist. All email communications shall contain “RFP 2016-03-VIT” in the subject line followed by the Respondent’s name. Late proposals will not be considered. The deadline to submit questions to [proposals@vit.org](mailto:proposals@vit.org) is 2:00 p.m. September 2, 2015.
4. The VIT will only accept electronic submittals of proposals in response to this RFP. Offerors are responsible for checking the VIT website for any addenda issued under this solicitation. VIT will not be responsible for any failure to be notified of any addenda or incomplete proposals. VIT solicitations and all addenda shall be posted on VIT’s website at <http://www.portofvirginia.com/about/policies/procurement/>.
5. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal shall be numbered. Each paragraph in the proposal shall reference the item number of the corresponding section of the RFP. It is also helpful to cite the paragraph number and sub letter of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and sub letter should be repeated at the top of the next page. The proposal shall contain a table of contents, which cross-references the RFP requirements. Information, which the Respondent desires to present, that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.
6. Ownership of all data, materials and documentation originated and prepared for the VIT pursuant to this RFP shall belong exclusively to VIT.
7. Oral Presentation and Demonstration: Respondents who submit a proposal in response to this RFP and are selected as a finalist may be required to give an oral presentation of their proposal. This provides an opportunity for the Respondent to clarify or elaborate on the proposal. This is a fact finding and explanation session only and does not include negotiation. The VIT will schedule the time and location of these presentations. Oral presentations and demonstrations are an option of the VIT and may or may not be conducted.

**IX. Submittal Format:**

1. The proposal shall be prepared in accordance with the format listed below; noting that the total response submitted should not exceed 50 pages, exclusive of appendices. Legibility, clarity, and completeness are essential. Please be comprehensive, but brief.

2. **Title Page:**

Show the RFP subject, the name of the proposer's firm, local address, telephone number, name of the contact person, and date. Please be comprehensive, but brief.

3. **Profile of Firm:**

- a. Provide a brief overview of your firm, including size of organization, description of organizational structure, and organization's experience in serving governmental entities.
- b. State the location of the office from which the work is to be performed and list pertinent information regarding this office, such as the range of services provided and number of personnel designated to serving governmental entities.

4. **Technical Requirements:**

Briefly state your understanding of the work to be performed.

5. **Project Organization & Firm's Experience/Approach:**

- a. Offerors should include a functional organization chart of their proposed team showing the estimated level of resources for an initial year by function. Brief summaries of the role in this project and experience of key personnel should be presented in short paragraphs. The offerors should include a brief paragraph outlining its approach to providing the services.

- b. The identification of all sub-contractors should be clear and contact information for all sub-contractors provided.

6. **Cost (Non-Binding):**

- a. Provide rates for each drayage service lane including additional categories.
- b. Provide Contractor's Mark-up rate for services over and above drayage rates. (Contractor shall not reduce drayage rates offered to drivers without approval in writing from VIT).

7. **References:**

Please provide a list of organizations that may be contacted for reference, including name, title, and phone number of contact person for each. Also note types of services provided to each organization listed. This section may be included as an appendix.

8. **SWaM:**

Return Attachment A. All information requested in Attachment A must be submitted. A searchable database of certified SWAM businesses is available at [www.dmb.virginia.gov](http://www.dmb.virginia.gov).

9. **Exceptions:**

Return Attachment B detailing exceptions, if any, to the terms and conditions defined in Section VIII. General Terms and Conditions and/or Section IX. Special Terms and Conditions.

10. **State Corporation Commission Form:**

Return Attachment C Proof of Authority to Transact Business in Virginia issued by the State Corporation Commission.

**X. PAYMENTS:**

Payments will be based upon weekly billing provided by the Contractor.

**XI. EVALUATION AND AWARD CRITERIA:**

**A. Evaluation Criteria:**

Proposals shall be evaluated by the VIT using the following criteria:

	<u>POINT VALUE</u>
1. Technical Requirements	30
2. Firm's Experience/Approach	40
3. Cost (Non-Binding) (Contractor's Mark-up)	10
5. SWaM Plan (Attachment A)	<u>20</u>
TOTAL	100

## **B. Award of Contract:**

The VIT shall engage in individual discussions and interviews with two or more Respondents deemed fully qualified, responsible and suitable on the basis of initial responses, and with professional competence to provide the required services. Repetitive informal interviews are permitted. Respondents shall be encouraged to elaborate on their approach, qualifications, past performance, and staff expertise pertinent to the proposed contract as well as alternative concepts and possibly illustrations from previous projects. Proprietary information from competing Respondents shall not be disclosed to the public or to competitors. However, the Respondents must, with specificity, identify those portions of its proposal which are “proprietary”. Respondents may not designate their entire proposal “proprietary” and any attempt to do so may result in rejection of the proposal. At the conclusion of any applicable informal interviews, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the VIT shall rank, in the order of preference, the Respondents whose overall proposals are deemed most meritorious. Negotiations shall then be conducted with the Respondent ranked first. If a contract is deemed satisfactory and advantageous to the VIT and can be negotiated at a fair and reasonable fee, the award shall be made to that Respondent. If negotiations are not successful, the negotiations shall be formally terminated and the project offered to the next firm for negotiation and possible award of the Contract. Should the VIT determine in writing and in its sole discretion that only one Respondent is fully qualified, or that one Respondent is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that Respondent. The VIT may cancel or modify this Request for Proposal or reject proposals at any time prior to an award, and is not required to furnish a statement of the reason why a particular proposal was not deemed to be the most meritorious.

## **XII. GENERAL TERMS AND CONDITIONS:**

### **A. Procurement and Surplus Property Manual:**

This solicitation is subject to the provisions of the Virginia International Terminals, LLC Surplus Property Manual and any revisions thereto, which are hereby incorporated into this contract in their entirety. A copy of the manual may be obtained by sending an email to [proposals@vit.org](mailto:proposals@vit.org).

### **B. Advertising:**

The Contractor shall give no indication of the sale and/or the provision of services to the VIT in product literature or advertising without the advance written consent of the VIT.

### **C. Applicable Laws and Courts:**

This solicitation and any resulting Contract shall conclusively be deemed to have been prepared, executed and entered into in the Commonwealth of Virginia, and any Contract resulting there from, including its formation, operation, and performance, shall be governed, construed, performed and enforced in accordance with the substantive laws of the Commonwealth of Virginia. Without limiting the generality of the foregoing, the United Nations Convention on Contracts for the International Sales of Goods shall not apply to this solicitation or any resulting Contract or to any of the transactions contemplated under any such Contract. Any litigation with respect to such Contract shall be brought in the courts of the Commonwealth of Virginia.

### **D. Assignment and Subcontracting:**

Any Contract awarded or any interest thereunder shall not be assigned, subcontracted, or transferred, in whole or in part, by the Contractor without the prior written consent of the VIT. The Contractor shall not assign any monies due or to become due to him, without the prior written consent of the VIT. No assignment shall relieve the Contractor from its obligations under the Contract.

### **E. Non-Discrimination:**

By entering into a Contract, the Contractor certifies to VIT that it will, where applicable, conform to the provisions of the Federal Civil Rights Act of 1964, as well as the Virginia Fair Employment Contracting Act of 1975, the Virginians With Disabilities Act, and the Americans With Disabilities Act, all of which as may be amended from time to time.

In every contract over \$10,000 the following provisions apply:

1. During the course of this Contract, the Contractor agrees that:
  - a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, or disabilities, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor will post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause.

- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
  - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The Contractor will include the provisions of 1. Above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

F. Confidential Relationship:

The Contractor shall keep in strictest confidence, and treat as proprietary to both VIT and its operating affiliate, Virginia International Terminals, LLC, all information that may be acquired in connection with, or as a result of, this Contract. During the term of the Contract and at all times thereafter, the Contractor shall not, without the prior written consent of VIT, publish, communicate, divulge, or use (except in the performance of the Contract itself) any such information unless it is in the public domain.

G. Debarment Status:

By submitting their proposals, Respondents certify that they are not currently debarred from submitting proposals or proposals on Contracts by any public entity within or without the United States, nor are they an agent of any person or entity that is so debarred.

H. Default:

In case of failure to deliver goods or services in accordance with the Contract terms and conditions, the VIT, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the VIT may have.

I. Drug Free Workplace Policy Statement:

The Contractor acknowledges and certifies that he understands that the following acts by the Contractor, his employees, and/or agents performing services on state property are prohibited:

- The unlawful manufacture, distribution, dispensing, possession or use of alcohol or other drugs; and
- Any impairment or incapacitation from the use of alcohol or other drugs (except the use of drugs for legitimate medical purposes).
- The Contractor further acknowledges and certifies that he understands that a violation of these prohibitions constitutes breach of contract and may result in default action being taken by the VIT in addition to any criminal penalties that may result from such conduct.

J. Ethics in Public Contracting:



By submitting their proposals, Respondents certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Respondent, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any employee of VIT, any payment, loan, service, or any other thing of whatever nature, of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

K. General Relationship:

In all matters relating to this Contract, the Contractor shall be acting as an independent contractor. Neither the Contractor nor employees of the Contractor are employees of VIT under the meaning or application of any federal or state unemployment or insurance laws or workers' compensation laws, or otherwise. The Contractor shall assume all liabilities or obligations imposed by any one or more of such laws with respect to employees of Contractor in the performance of this Contract. The Contractor shall not have any authority to assume or create any obligation, express or implied, on behalf of VIT, and the Contractor shall have no authority to represent itself as an agent, employee, or in any other capacity of VIT.

L. Immigration Reform and Control Act of 1986:

By submitting their proposal, Respondents certify that they do not and will not, during the performance of this contract, employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986.

M. Insurance:

By signing and submitting a proposal under this solicitation, the Respondent certifies that if awarded the Contract, it and its subcontractors will have the following minimum insurance coverage at the time the Contract is awarded. The Respondent further certifies that it will maintain them during the entire term of the Contract and that all insurance coverage applicable to the activities of the Contractor or its subcontractors in the Commonwealth of Virginia will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

N. Insurance Coverage and Limits Required:

1. Worker's Compensation – Statutory requirements and benefits with, if applicable to the work being performed, the necessary endorsements to include Longshoreman's, Harbor Workers coverage and Admiralty coverage.
2. Employers Liability - U.S. \$1,000,000 (one million dollars).
3. Commercial General Liability - U.S. \$5,000,000 (five million dollars) combined single limit.
4. Automobile Liability - U.S. \$5,000,000 (five million dollars).

None of the above insurance coverage shall be subject to cancellation or reduction without thirty (30) advance notice being given to the VIT. All such insurance coverage shall contain waiver of subrogation and contractual indemnity clauses or endorsements that are reasonably satisfactory to the VIT. Upon the request of the VIT, the Contractor shall

furnish proof reasonably satisfactory to the VIT that the Contractor and its subcontractors have procured and maintain all such required insurance coverage.

O. No Oral Modifications To The Contract:

No modification of, or addition to, the provisions of the Contract shall be effective unless reduced to writing and signed by the parties to the Contract.

P. Prime Contractor Responsibilities:

The Contractor shall be responsible for completely supervising and directing the work under this Contract and all subcontractors that it may utilize with the prior written consent of VIT, using its best skill and attention. Subcontractors who perform work under this Contract shall be responsible to the prime Contractor. The Contractor agrees that it is as fully responsible for the acts and omissions of its subcontractors as it is for the acts and omissions of its own employees.

Q. Proposal Acceptance Period:

Any proposal resulting from this solicitation shall be valid for ninety (90) days. At the end of the ninety (90) days, the proposal may be withdrawn at the written request of the Respondent. If the proposal is not withdrawn at that time, it remains in effect until an award is made or the solicitation is canceled.

R. Qualifications of Respondents:

The VIT may make such reasonable investigations as it deems proper and necessary to determine the ability of the Respondent to perform the work or furnish the item(s) contemplated herein and the Respondent shall furnish to the VIT all such information and data for this purpose as may be requested. The VIT reserves the right to inspect Respondent's physical facilities prior to award to satisfy questions regarding the Respondent's capabilities. The VIT further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such Respondent fails to satisfy the VIT, in its sole discretion, that such Respondent is properly qualified to carry out the obligations of the Contract and to complete the work or furnish the item(s) contemplated therein.

S. Representations:

The Respondent hereby represents and warrants that (1) as of the date hereof, and on and as of the date of the provision of goods or services contemplated herein, the Respondent is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization; (2) the Respondent has the full right, power and authority and has taken all necessary action under the laws of its jurisdiction of organization to authorize it to execute and deliver a Contract, to consummate the transactions contemplated hereby and in the Contract and to perform its obligations thereunder. The Respondent hereby agrees to furnish to the VIT any and all certificates of governmental authorities and/or officers or directors of the Respondent that the VIT may reasonably require in order to confirm the due authorization and execution of the proposal and the Contract and the Respondent's right, title and authority to perform its obligations under the Contract.

T. Strict Loyalty:

The Contractor and its employees shall avoid all circumstances and actions that would place the Contractor in a position of divided loyalty with respect to the obligations undertaken under this Contract.

U. Superseding Effect:

This Contract supersedes all prior oral or written agreements, if any, between the parties, and constitutes the entire agreement between the parties.

V. Taxes:

Sales to the Commonwealth of Virginia, including the Virginia Port Authority, are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against the Contract shall be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-74-0076K.

W. Antitrust:

By entering into a contract, the Contractor conveys, sells, assigns, and transfers to the Virginia Port Authority all rights, title and interest in and to all causes of the action, it may now have or hereafter acquire, under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Virginia Port Authority under said contract.

X. Mandatory Use of Form and Terms and Conditions of RFP's:

Failure to submit a proposal on the official Virginia Port Authority form (Transmittal Page) provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, VIT reserves the right to decide, on a case-by-case basis, in its sole discretion, whether to reject such a proposal.

Y. Clarification of Terms:

If any prospective Offeror has questions about the specifications or other solicitation documents, the prospective Offeror should send an email to proposals@vit.org. Any revisions to the solicitation will be made only by addendum issued by VPA on behalf of VIT.

Z. Payment Terms:

Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to Virginia International Terminals, LLC Accounts Payable, 1431 Terminal Boulevard, Norfolk, VA 23505 all invoices shall show the VIT Contract number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations.)

Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.

AA. Changes to the Contract:

Changes can be made to the Contract in any one of the following ways:

1. The VIT may order changes within the general scope of the Contract at any time by written notice to the Contractor. Changes within the scope of

the Contract include, but are not limited to, things such as the method of packing or shipment, the place of delivery or installation, and changes in the specifications, including drawings and designs. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the VIT a credit for any savings. Said compensation shall be determined by one of the following methods:

- a. By mutual agreement between the parties in writing; or
  - b. By agreeing upon a unit price or using a unit price set forth in the Contract, if the work to be done can be expressed in units, and the Contractor accounting for the number of units of work performed, subject to the VIT's right to audit the Contractor's records and/or to determine the correct number of units independently; or
  - c. By ordering the Contractor to proceed with the work and to keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the Contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present the VIT with all vouchers and records of expenses incurred and savings realized. The VIT shall have the right to audit the records of the Contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the VIT within thirty (30) days from the date of receipt of the written order from the VIT. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the Contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this Contract or, if there is none, in accordance with the disputes provisions of the VIT Purchasing and Surplus Property Manual. Neither the existence of a claim or a dispute resolution process, litigation or any other provision of this Contract shall excuse the Contractor from promptly complying with the changes ordered by the VIT or with the performance of the Contract generally.
2. The parties may agree in writing to modify the scope of the Contract. Any increase or decrease in the price of the Contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the Contract.

Notwithstanding any other provisions of the Contract or any document referenced therein, VIT is the only entity authorized to make changes in or redirect the work required by the Contract. If VIT's approval is required under the terms of the Contract, it shall be construed to mean the approval of VPA's

Director of Contracts & Real Estate. In the event the Contractor effects any change at the direction of any other person, the change shall be considered as having been made without authority, and no adjustment shall be made in the Contract price or delivery schedule as a result thereof.

### **XIII. SPECIAL TERMS AND CONDITIONS:**

A. Audit:

The Contractor hereby agrees to keep adequate records of any direct labor costs and all other costs of the performance of this Contract and to retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The VIT, its authorized agents, and/or State auditors shall have full access to, and the full right to examine, any of said materials during said period.

B. Indemnification:

The Contractor agrees to indemnify, defend and hold harmless the Commonwealth of Virginia, the Virginia Port Authority, Virginia International Terminals, LLC, and their officers, agents, and employees from any claims, damages and actions on account of bodily injury (including sickness and death) or damage to property, whether at law or in equity, arising from or caused by the use of any materials, goods, equipment, or services of any kind or nature furnished by the Contractor except to the extent that such liability is caused by or is attributable to the sole negligence of the Commonwealth of Virginia, the Virginia Port Authority, or Virginia International Terminals, LLC.

C. Small Business Subcontracting and Evidence of Compliance:

Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to small businesses. This shall include SBSB-certified women-owned and minority-owned businesses when they have received SBSB small business certification. If small business subcontractors are used, the prime contractor agrees to report use of small business subcontractors by providing the purchasing office at a minimum the following information: name of small business, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product/service provided.

D. Best and Final Offer:

At the conclusion of negotiations, the Respondent(s), may be asked to submit in writing, a Best and Final Offer (BAFO). After the BAFO is submitted, no further negotiations shall be conducted with the Respondent(s). The Respondent's proposal will be rescored to combine and include the information contained in the BAFO. The decision to award will be based on the final evaluation including the BAFO.

E. E-Verify. Effective 12/1/13:

Pursuant to Code of Virginia, §2.2-4308.2, any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with any agency of the Commonwealth to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract. Any such employer who fails to comply with these provisions shall be debarred from contracting with any agency of the Commonwealth

for a period up to one year. Such debarment shall cease upon the employer's registration and participation in the E-Verify program. If requested, the employer shall present a copy of their Maintain Company page from E-Verify to prove that they are enrolled in E-Verify.

F. State Corporation Commission Identification Number:

Pursuant to Code of Virginia, §2.2-4311.2 subsection B, a bidder or Respondent organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any bidder or Respondent that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the bidder or Respondent is not required to be so authorized. Indicate the above information on the SCC Form provided as Attachment C. Contractor agrees that the process by which compliance with Title 13.1 and 50 is checked during the solicitation stage (including without limitation the SCC Form provided) is streamlined and not definitive, and the Commonwealth's use and acceptance of such form, or its acceptance of Contractor's statement describing why the bidder or Respondent was not legally required to be authorized to transact business in the Commonwealth, shall not be conclusive of the issue and shall not be relied upon by the Contractor as demonstrating compliance.

G. Subcontracts:

No portion of the work shall be subcontracted, assigned, or delegated without the prior written consent of VIT. In the event that the Contractor desires to subcontract, assign, or delegate some part of the work specified herein, the Contractor shall furnish the VIT the names, qualifications and experience of its proposed subcontractors or assignees. The Contractor shall, however, remain fully liable and responsible for the work and shall assure compliance with all requirements of the Contract.

H. Termination and Suspension:

VIT may terminate or suspend the delivery of the items contemplated hereunder without liability to the Contractor, if (a) the Contractor fails to deliver the items in conformance with the provisions of this Contract by the date contracted for by the Contractor and VIT and such non-delivery continues for any significant period of time; (b) the Contractor breaches or otherwise fails to perform any of its other obligations under the Contract and fails to cure such nonperformance promptly after notice thereof from VIT and after a reasonable time to cure such non-performance; (c) Contractor is or becomes insolvent or unable to pay its debts as they become due; (d) any bankruptcy or insolvency proceeding is commenced by or against Contractor; or (e) application is made for appointment of a receiver or custodian for the Contractor or any of Contractor's properties, or for an assignment for the benefit of Contractor's creditors. The duration of any such suspension shall continue only until such time as the aforementioned events continue to exist. Any termination or suspension by VIT shall be without prejudice to any claims for damages or other rights of the VIT against

Contractor.

I. Termination for Convenience:

The VIT may terminate any Agreement(s) resulting from this solicitation at any time, for any reason or for no reason, upon thirty (30) days advance written notice to the Contractor(s). In the event of such termination, the Contractor(s) shall be compensated for services and work performed prior to termination.



# Attachment A

## Small Business Subcontracting Plan

### Definitions

**Small Business:** "Small business " means an independently owned and operated business which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years. Note: SBSB-certified women- and minority-owned businesses shall also be considered small businesses when they have received SBSB small business certification.

**Women-Owned Business:** Women-owned business means a business concern that is at least 51% owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest is owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, and both the management and daily business operations are controlled by one or more women who are citizens of the United States or non-citizens who are in full compliance with the United States immigration law.

**Minority-Owned Business:** Minority-owned business means a business concern that is at least 51% owned by one or more minority individuals or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals.

**All small businesses must be certified by the Commonwealth of Virginia, Small Business and Supplier Diversity (SBSB) to participate in the SWAM program. Certification applications are available through SBSB online at [www.dmbv.virginia.gov](http://www.dmbv.virginia.gov) (Customer Service).**

**Bidder/Respondent Name:** \_\_\_\_\_

**Preparer Name:** \_\_\_\_\_ **Date:** \_\_\_\_\_

### Instructions

- A. If you are certified by the Department of Minority Business Enterprise (SBSB) Small Business and Supplier Diversity (SBSB) as a small business, complete only Section A of this form. This shall include SBSB-certified women-owned and minority-owned businesses when they have received SBSB small business certification.
- B. If you are not certified by SBSB as a small business and plan to subcontract part of this contract with a SBSB certified business, complete only Section B of this form.
- C. If you are not certified by SBSB as a small business and cannot identify any subcontracting opportunities to subcontract part of this contract with a SBSB-certified business, only provide the information requested in Section C of this form.

### Section A

If your firm is certified by the Small Business and Supplier Diversity (SBSB), are you certified as a (**check only one below**):

- \_\_\_\_\_ Small Business
- \_\_\_\_\_ Small and Women-owned Business
- \_\_\_\_\_ Small and Minority-owned Business

Certification number: \_\_\_\_\_ Certification date: \_\_\_\_\_

**Section B**

Populate the table below to show your firm's plans for utilization of SBSB-certified small businesses in the performance of this contract. This shall include SBSB-certified women-owned and minority-owned businesses that meet the small business definition and have received the SBSB small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc.

**Plans for Utilization of SBSB-Certified Small Businesses for this Procurement**

Small Business Name & Address  SBSB Certificate #	Status if Small Business is also: Women (W), Minority (M)	Contact Person, Telephone & Email	Type of Goods and/or Services	Planned Contract Involvement	Planned Annual Contract Dollar Expenditure Amount
<b>Totals \$</b>					

## Section C

Respond to how your business has met or exceeded at least two of the following indicators within the past 24 months. Your response may include any good faith efforts made regarding this procurement.

### **Good Faith Effort Indicators by the Bidder/Respondent**

1. Identify areas of work your business has subcontracted to SBSB-certified small businesses for other contracts. Include company names, dates, dollar amounts, and percentages on a per contract basis.
2. List research efforts conducted by your business in the past to locate SBSB-certified small businesses by advertising in publications or in the classified section of the newspaper where small businesses are likely to see it. List specific publications and dates.
3. List small business outreach meetings, conferences, or workshops conducted by your firm to locate SBSB-certified small businesses—including the dates, participation numbers, and results.
4. Provide documented correspondence (i.e., certified mail, email, receipt of fax transmissions, etc.) to small businesses from the lists provided by SBSB and other outreach agencies and organizations which indicates your solicitation of such for utilization of subcontracting opportunities on other contracts for which your business has competed.
5. List areas of work which your business has subcontracted with SBSB-certified small businesses for upcoming contracts—including the name of the business, certification number, dates, dollar amounts, and percentages on a per contract basis.
6. Provide documentation of any assistance offered to interested small businesses in obtaining bonds, lines of credit, and/or insurance for any present or past contracts your business has in place.
7. Provide documentation of follow-up on initial contacts with SBSB-certified small businesses (e.g., telephone call logs, emails, certified letters, etc.). Be sure to list the small business name and dates of contact.

**Attachment B**

**EXCEPTION PAGE**  
**(RFP # 2016-03-VIT)**

**EXCEPTIONS:**

Provider must sign the appropriate statement below, as applicable:

( ) Provider understands and agrees to all terms, conditions, requirements, and specifications stated herein.

Firm: \_\_\_\_\_

Signature: \_\_\_\_\_

( ) Provider takes exception to terms, conditions, requirements, or specifications stated herein (Provider must itemize all exceptions below, and return with their bid/response):

Firm: \_\_\_\_\_

Signature: \_\_\_\_\_

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

Providers should note that any exceptions taken from the stated terms and/or specifications may be cause for their submittal to be deemed “non-responsive”, risking the rejection of their submittal.

**Bid/Proposal Results**

Award information will be posted on VIT’s website at <http://www.portofvirginia.com/about/policies/procurement/>.

**Attachment C**  
**PROOF OF AUTHORITY TO TRANSACT BUSINESS IN**  
**VIRGINIA**  
**(RFP # 2016-03-VIT)**

THIS FORM MUST BE SUBMITTED WITH YOUR PROPOSAL/BID, FAILURE TO INCLUDE THIS FORM MAY RESULT IN  
REJECTION OF YOUR PROPOSAL/BID

Pursuant to Virginia Code §2.2-4311.2 an Respondent/Bidder organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its proposal/bid the identification number issued to it by the State Corporation Commission (“SCC”). Any Respondent/Bidder that is 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 Code of Virginia or as otherwise required by law shall include in its proposal/bid a statement describing why the Respondent/Bidder is not required to be so authorized.

If this proposal for goods or services is accepted by VIT the undersigned agrees that the requirements of the Code of Virginia Section §2.2-4311.2 have been met.

Please complete the following by checking the appropriate line that applies and providing the requested information.

A. \_\_\_\_\_ Respondent/Bidder is a Virginia business entity organized and authorized to transact business in Virginia by the SCC and such vendor’s Identification Number issued to it by the SCC is \_\_\_\_\_.

B. \_\_\_\_\_ Respondent/Bidder is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and such vendor’s identification Number issued to it by the SCC is \_\_\_\_\_.

C. \_\_\_\_\_ Respondent/Bidder does not have an Identification Number issued to it by the SCC such vendor is not required to be authorized to transact business in Virginia by the SCC for the following reason(s):

**Please attach additional sheets if you need to explain why such Respondent/Bidder is not required to be authorized to transact business in Virginia.**

\_\_\_\_\_  
Legal Name of Company (as listed on W-9)

\_\_\_\_\_  
Legal Name of Respondent/Bidder

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print or Type Name and Title

**RETURN THIS PAGE WITH COPIES OF DOCUMENTATION**