

NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

MEMORANDUM

TO: Chairman Martin E. Nohe and Members
Northern Virginia Transportation Authority

FROM: Mayor Parrish, Chair, Finance Committee

DATE: January 6, 2017

SUBJECT: Investment Safekeeping and Custody Service Agreement

1. **Purpose:** Seek Northern Virginia Transportation Authority (NVTA) approval of proposed Investment Safekeeping and Custody Service Agreement with BB&T. The Finance Committee was briefed on the competitive procurement process used and recommends approval to the NVTA.
2. **Suggested Motion:** *I move the Authority approval of the selection of BB&T for Investment Safekeeping and Custody Services and related FY2017 budget adjustment and authorize the Chief Financial Officer to sign related banking documents.*
3. **Background:**
 - a. Safekeeping and Custody services are a required element of the Investment Program and are necessary to enable Authority staff to comply with the Code of Virginia and the Authority's investment policy whenever NVTA staff purchases investment instruments.
 - b. The Authority's Custody Services contract will have safekeeping responsibilities for approximately \$600 million of Authority investments.
 - c. Investment earnings will increase when the Safekeeping and Custody Services agreement is engaged, as the infrastructure will be in place to shift from depository based investments to Treasuries, Agencies and other high grade options permitted in the Authority's Investment Policy.
 - d. A Request for Proposals (RFP) was issued with a proposal due date of October 21, 2016.
 - e. Notice of this open procurement was placed on the NVTA website and with the Commonwealth's eVA procurement notice system.
 - f. Six banks submitted proposals in response to the RFP.
 - g. Five banks were determined to have submitted responsive and responsible proposals eligible for consideration by the RFP evaluation team.
 - h. The RFP evaluation team consisted of:
 - i. NVTA's Chief Financial Officer
 - ii. NVTA's Investment and Debt Manager
 - iii. Loudoun County's Investment Officer
 - iv. Fairfax County's Investment Manager
 - i. The evaluation team met on October 31 and, based on initial reviews of the firms' technical proposals, the committee identified three responding firms with which to

enter the oral presentation/best and final offer negotiation stage of the procurement process.

- j. Oral interviews incorporating “best and final” proposals were held on Monday November 14, 2016. A single bank, BB&T, was unanimously selected by the RFP evaluation team as the preferred firm for the Investment Safekeeping and Custody Services contract award.
- k. On December 15, 2016, the Finance Committee recommended submission of the contract with BB&T to the Authority for its approval at the Authority’s January 2017 meeting.

4. Negotiations.

- a. In connection with the oral interviews, final negotiations with BB&T have resulted in an annual cost of \$25,000, and have incorporated satisfactory technical terms concerning processing of investment purchases, maturities, call and sale settlements.
- b. We believe these negotiations enabled us to identify the firm which provides the best combination of pricing and associated service levels.

5. Next Steps

- a. With the Authority’s approval, the contract with BB&T will be executed by the Chief Financial Officer.
- b. After the Authority approval and the contract execution, BB&T will then commence work as the Authority’s Investment Safekeeping and Custody service provider and support the Authority’s investment program. This will enable Authority staff to safely and legally purchase investment instruments which will noticeably improve the interest earned on the Authority’s available cash.
- c. A full year’s cost of this contract will be \$25,000; FY2018 will be the first year to incur the full year cost for this engagement, and the FY2018 (and thereafter) operating budgets will reflect this expense.
- d. The FY2017 cost is expected to be \$12,500 and can be absorbed within the FY2017 operating budget. This budget reallocation is possible as a result of the delay in the next bond issuance which will, in turn, defer bond counsel costs.
- e. With Authority approval, the FY2017 adjustments will be made to the Operating Budget to reflect a new cost category of Investment safekeeping and Custody Services.

Attachments:

- A. Contract Award Notice – Investment and Custody Services, RFP# 2017-02
- B. BB&T Custody Service Agreement



Northern Virginia Transportation Authority
The Authority for Transportation in Northern Virginia

January 12, 2017

Mr. Allan Westcott, Senior Vice President
Branch Banking and Trust Company
1909 K Street NW
Washington, DC 20006

Dear Mr. Westcott:

The Northern Virginia Transportation Authority (NVTA) has acted to authorize the award of a contract to Branch Banking and Trust Company (BB&T) to perform investment safekeeping and custody services requested in NVTA RFP No. 2017-02 and described in your Technical Proposal and separate Price Proposal dated October 21, 2016.

The following clarifications and modifications apply:

1. BB&T letter dated October 21, 2016 confirming:
 - a. The firm will perform the scope of work identified in NVTA RFP 2017-02 and the services and deliverables outlined in:
 - i. Technical Proposal of October 21, 2016
 - ii. Supplemental document dated October 21, 2016
 - b. The annual fee for services will be \$20,000 plus fees for wire transfers and other similar supplemental services as noted in your RFP response.
2. NVTA selects 'Payment Option One' as presented in the BB&T Price Proposal dated October 21, 2016.
3. The first six month's payment to BB&T will be prorated based on the NVTA start work authorization date.

This letter, together with NVTA RFP 2017-02 and the BB&T Technical Proposal and Price Proposal dated October 21, 2016 and the revisions noted above, provides the agreement to conduct the project under the specified terms and conditions. This letter also constitutes your notice to proceed unless advised otherwise in writing by NVTA on or prior to January 30, 2017.

If you concur please sign both originals and return one copy to Carl Hampton, NVTA Investment and Debt Manager. Please contact Mr. Hampton at (703) 642-4658 with any questions.

Sincerely,

Michael Longhi
NVTA Chief Financial Officer

Allan Westcott
Senior Vice President

Date

Date

Custody Agreement

Account Identifying Information

Client Name: **Northern Virginia Transportation Authority (the "Principal")**

Account Name: **NVTA Custody Account**

Effective Date:

Establishment

1.1 Appointment. The Principal appoints Branch Banking and Trust Company (the "Bank") as Custodian for certain assets of the Principal as the Principal may from time to time designate and transfer to the Bank as Custodian into the Custody Account.

1.2 Acceptance. The Bank accepts the appointment as Custodian subject to the terms and conditions of this Custody Agreement (the "Agreement"), and agrees to hold and administer the assets of the Custody Account and to execute this Agreement in accordance with its provisions.

1.3 Distribution. The Bank will distribute so much of the Custody Account, including income and principal, as Principal may direct from time to time, subject to any fees due and owing to the Bank. The Bank will not be liable for any loss or penalty arising from the liquidation of any investment as a result of such distribution directions.

Investment Direction

2.1 No Bank Discretion. The Bank shall follow the written directions of the Principal regarding the investment or reinvestment of the Custody Account assets. In following such directions, the Bank shall be relieved of any fiduciary responsibility for the investments. At the direction of the Principal or any Investment Manager, or in the absence of any directions from the Principal or any Investment Manager, the Bank is authorized to deposit otherwise uninvested cash in the Custody Account in a cash deposit program offered by BB&T, subject to the Terms and Conditions of the selected program. The Principal acknowledges receipt of the Terms and Conditions, and they are incorporated herein by reference.

2.2 Standard. In the exercise and performance of its powers and duties, the Bank shall act at all times with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims. The Principal acknowledges that no representation has been made by the Bank concerning the investment performance of the Custody Account, and that the Custody Account assets are not insured by the Bank or by any government agency.

2.3 Mutual Funds. If directed by the Principal, the Bank is specifically authorized to invest in mutual funds registered under the Investment Company Act of 1940, including mutual funds to which Bank or an affiliate provides investment management, custody or other services and for which it receives compensation, or with which it has in common officers, directors or employees.

Powers and Duties of the Custodian

3.1 General Powers. The Bank is authorized to perform acts incidental to its duties under this Agreement at the direction of the Principal, including without limitation the following authority:

- a) To vote or to refrain from voting any stock held in the Custody Account personally or by proxy and to delegate the Bank's powers with respect to stock to a proxy.
- b) To exercise subscription, conversion and other rights and options and to make payments from the Custody Account in connection therewith.

- c) To take any action and to abstain from taking any action with respect to any reorganization, consolidation, merger, dissolution, recapitalization, refinancing and any other change affecting any property held as part of the Custody Account, and in connection therewith to delegate its powers and to pay assessments, subscriptions and other charges from the Custody Account.
- d) To employ agents, experts, and counsel, to delegate powers to, and rely upon information and advice furnished by, such agents, experts and counsel, and to compensate such agents, experts and counsel out of the Custody Account.
- e) From time to time to register any property in the name of its nominee or depository or in its own name or to hold it unregistered or in such form that title shall pass by delivery, provided that the records of the Bank shall at all times indicate the true ownership of such securities.

3.2 Records. The Bank shall keep accurate and detailed accounts of all investments, receipts, disbursements, distributions and other transactions. The Bank's accounts shall be open to inspection and audit by the Principal or any authorized representative at all reasonable times during business hours.

3.3 Statements. The Bank will provide the Principal with a monthly summary of all income and principal transactions and, within a reasonable period of time after the end of the Principal's fiscal year, an annual summary of such transactions and a statement of assets as of such fiscal year end. The Principal agrees that these accountings will be sufficient to comply with the rules and regulations regarding record keeping and confirmation requirements for securities transactions, and directs the Bank not to send notification of each individual transaction. Confirmations can be provided at the Principal's request for each individual securities transaction at no additional charge. When approved by the Principal, the Bank's account shall be binding on the Principal, and the Bank will be released and discharged from any liability or accountability to anyone with respect to all matters set forth therein. Failure by the Principal to object in writing to any specific items in an account within 180 days after its delivery to the Principal will constitute approval of the account by the Principal.

3.4 Disclosure of Information. Pursuant to Securities and Exchange Commission Rule No. 14b-2(b) under the Securities Exchange Act of 1934, the Bank is authorized is not authorized to disclose the Principal's name, address and security positions of current and future security holdings that may be held under this Agreement from time to time.

Administrative Provisions

4.1 Compensation. The Bank shall be entitled to such reasonable compensation for its services as may be agreed upon from time to time by the Principal and the Bank. The Bank shall be entitled to reimbursement for all expenses reasonably incurred by the Bank in the administration of the Custody Account. The Bank's compensation and expenses shall be paid by the Principal or from the Custody Account as directed by the Principal, or if left unpaid by the Principal for a period of more than 45 days from the Custody Account. Fees received by the Bank (or an affiliate) for investment management, custody or other services provided to mutual funds in which the Custody Account is invested, or for other services not contemplated by this Agreement (such as acting as broker), shall be in addition to and not in lieu of fees for serving as Custodian.

4.2 Instructions. The Bank will be entitled to rely on and be protected in acting on instructions from the Principal whether received in writing, by facsimile transmission, by electronic transmission, by telephone, in person, or by other means reasonably believed by the Bank to be from the Principal. The Principal acknowledges that the Bank has authority not to execute any transaction that the Bank reasonably believes may violate applicable statutes and regulations or subject it to liability or loss.

4.3 Cost Basis. As part of the Emergency Economic Stabilization Act of 2008, Congress enacted specific legislation that significantly changes the way financial institutions are required to track and report cost basis information for client accounts. The goal of the legislation is to provide investors with the means to accurately report gains and losses on the sale of securities for their annual tax filings, as well as a method for the taxing authorities to verify the information. The Act also requires a default tax lot selection methodology of "First In – First Out (FIFO)" unless you request a different tax lot method. The Tax Lot Section Method: Tax Advantaged Other – Specify:

4.4 Indemnification. The Principal will fully indemnify and save harmless the Bank, its successors and assigns, from any loss resulting from liability to which the Bank may be subject by reason of any act or conduct except for the Bank’s own willful misconduct or negligence in its capacity as Custodian, including all expenses reasonably incurred in its defense should the Principal fail to provide such defense. The Bank shall be under no duty to take any action other than as herein specified with respect to the Custody Account unless the Principal shall furnish the Bank with instructions in proper form; or to defend or engage in any suit with respect to the Custody Account unless the Bank shall have first agreed in writing to do so and shall have been fully indemnified to the satisfaction of the Bank.

4.5 Removal. The Bank may be removed by the Principal at any time upon written notice 30 days in advance of the removal. The Bank may resign as Custodian by filing with the Principal a written resignation, which shall take effect 30 days after the date of the filing, unless before that time a successor Custodian shall have been appointed by the Principal.

4.6 Entire Agreement. This Agreement constitutes the entire agreement between the parties related to the Custody Account. The Bank shall have no duties whatsoever except as are specifically set forth as such in this Agreement, and no implied covenant or obligation will be read into this Agreement against the Bank.

4.7 Governing Law. The laws of the State of _____ will govern the interpretation and operation of this Agreement.

4.8 Amendment. This Agreement may be amended by a written agreement signed by both parties.

Client Name: Northern Virginia Transportation Authority

By: _____

Title:

Date:

Branch Banking and Trust Company

By: _____

Title:

Date: