

**REQUEST FOR BIDS
ROANOKE REGIONAL AIRPORT COMMISSION**

BID NUMBER:	20-011
BID DUE DATE:	July 17, 2020
BID OPENING TIME:	2:00 P.M.
BID FOR:	PURCHASE OF RUNWAY DE-ICING / ANTI-ICING FLUID

PART I - INSTRUCTIONS TO BIDDERS

A. General

1. The Roanoke Regional Airport Commission is seeking bids for the purchase of potassium acetate-based Runway De-Icing/Anti-Icing Fluid on an "as needed and requested" basis with no minimum or maximum quantity for a period of approximately three (3) years.
2. Submit bid quotation on the blank bid form included herein (see Part II-Bid Form 1), filling in all spaces and information; failure to answer all questions, provide all information and return all pages of this Request for Bid may be cause for disqualification of the bidder.
3. All bids must be signed by an authorized representative of the responding firm.
4. The bid must be presented in an opaque envelope and must be sealed, marked and must be received by 2:00 p.m. on July 17, 2020 at the following address:

Roanoke Regional Airport Commission
Administrative Offices
5202 Aviation Drive
Roanoke, Virginia 24012

Attention:
Erin Henderson-Purchasing and Contracts Manager

Place in lower left-hand corner:

Purchase of Runway De-Icing/Anti-Icing Fluid
Bid Number 20-011
Roanoke-Blacksburg Regional Airport

5. Only those bids received in the Commission's Administrative Offices, Second Floor Terminal Building, prior to the bid opening date and time specified above shall be considered. Bids received after the bid opening time and date will be returned unopened.

6. Evaluation of Bids

This bid will be awarded to the responsive and responsible bidder offering the lowest total price per gallon for each 4,400-4,500-gallon shipment delivered to the Roanoke Blacksburg Regional Airport. There will be no public opening of the bids.

7. **Any questions concerning this Request for Bid shall be provided in writing/email to Erin Henderson, Purchasing and Contracts Manager on or before 2:00 p.m. local time on July 7th, 2020 by email to erinh@flyroa.com ; otherwise, Bidders shall not contact any Commission employee concerning the bids until the bids have been opened.**

B. Additional Bid Requirements:

1. Bid quotes, on the basis of an approximate 4,400 - 4,500-gallon shipment shall include all transportation, delivery, handling and any other associated costs and, if required, training of Commission personnel.
2. Each bidder shall include on the bid form the name of at least three Airport references for the same product being bid including the name and telephone number of a contact at the referenced Airport. Since the Commission does not desire to purchase a prototype product, the product being bid must have been in use for at least one full winter season at each of the named airports, such referenced airports should be the same approximate distance from the bidder's distribution facility as is the Roanoke-Blacksburg Regional Airport (see Bid Form-1).
3. Each bidder shall submit, with its bid, at no cost to the Commission, a certification by an independent third-party laboratory that its product meets all requirements of the FAA approved specification SAE AMS 1435 and any additional specifications contained herein.
4. Each bidder shall submit, with its bid, a safety data sheet (SDS) for the Runway De-Icing and Anti-Icing product it proposes to provide.
5. **Each bidder shall submit Bid Form-2 with its bid**, which has been completed to include the identification number issued to it by the State Corporation Commission (SCC) indicating that it is organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50. If the

Bidder is not required to be authorized to transact business in Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law, the bidder shall include on Bid Form-2 a statement describing why the bidder is not required to be so authorized. **Any bidder that fails to provide the required information shall not receive an award** unless a waiver of this requirement is granted by the Commission's Executive Director.

6. Any changes, including corrections of omissions and discrepancies that may be made to the Invitation to Bid will be in the form of an Addendum which will be provided to all Bidders. Receipt by the Bidder of such addendum shall be acknowledged on the bid form.
7. The requirements for the purchase, including the detailed specifications and other requirements, terms and conditions which will be imposed on the successful bidder is included in the attached Proposed Contract (Part III).

C. Additional Information to Assist Bidders:

1. Shipments must be delivered to the Roanoke-Blacksburg Regional Airport **within twenty-four (24) hours** of each request for shipment.
2. The successful bidder must provide a telephone contact available to receive requests for shipments 24 hours per day.
3. The Roanoke Regional Airport Commission currently has sufficient storage for 10,500 gallons of potassium acetate based liquid deicer and anti-icer and has approximately 10,500 gallons already on hand. The actual usage is totally dependent upon weather conditions. These estimates are provided for the benefit of the potential bidders and shall in no way be construed to require the Commission to purchase any minimum amount of de-icing/anti-icing fluid, nor constrain it from purchasing more than it has purchased in previous years. However, unless the contract is cancelled or otherwise terminated or an emergency condition develops, the Commission shall be required to purchase all of its requirements for Potassium Acetate Base Liquid De-icer/Anti-icer, as determined by Commission, during the contract term from the successful bidder.
4. The Roanoke Regional Airport Commission will initiate an order for approximately 4,400-4,500 gallons of Runway Deicing /Anti-icing Fluid when it is determined that the Commission's storage capacity can accept that amount. However, it is understood that the type of truck, loading condition or other factors may cause the quantity delivered to vary. The Commission will pay for the gallons actually delivered at the rate per gallon quoted on the successful bidder's bid form (Page B.F.-1 of this Request for Bids). If a

delivery truck is carrying a quantity in excess of 4,400-4,500 gallons, the Commission may be able to accept the additional fluid; however, it is not obligated to do so, or to pay for any undeliverable excess fluid.

5. This Contract shall begin upon full execution and shall expire on June 30, 2023.
6. The Roanoke Regional Airport Commission is treated as a political subdivision of the Commonwealth of Virginia, and may qualify for any government discount a bidder's company may offer.

D. Bid Award

1. The Commission reserves the right to award the Contract to a Bidder other than the apparent low Bidder. Should a Contract be awarded to a Bidder other than the apparent low Bidder, it will be awarded to the lowest responsive and responsible Bidder meeting all specifications, and having positive commercial references, who is not in default on any other Commission contract and providing a product which is effective in meeting the runway deicing/anti-icing fluid requirements for which it is intended.
2. The Commission reserves the right to waive any informality in any bid and to reject any or all bids should said action be deemed to be in the best interest of the Commission.
3. Bids shall be valid for 60 days. Within sixty (60) consecutive calendar days after the Bid Opening date, the Roanoke Regional Airport Commission may give written "Notice of Bid Acceptance". The successful Bidder shall be required, within fifteen (15) consecutive calendar days after the receipt of the "Notice of Bid Acceptance" to execute the Contract.
4. Should the successful Bidder fail to execute and return the Contract within the time allowed, the Commission may proceed to contract with the next lowest responsive and responsible Bidder meeting all specifications and effectiveness requirements, and may act to debar the first successful Bidder from future bidding opportunities.
5. The bid award shall not be final and effective, nor the Commission legally bound, until the fully executed contract is returned to the successful bidder.
6. Failure to perform the Contract in a reliable manner shall constitute a basis to determine for future Contracts that the Seller is not a responsible bidder and the Commission may refuse to award such future contracts to Seller.

7. This procurement is subject to and governed by the Virginia Public Procurement Act, as amended, as modified by the Roanoke Regional Airport Commission Procurement Regulations, as amended, which are incorporated by reference herein.
8. All proposals or bids and any accompanying or related information submitted to the Commission will become the property of the Commission and will not be returned. Trade secrets or proprietary information submitted by a proposer or bidder may not be subject to the Virginia Freedom of Information Act (Section 2.2-3700 et seq.), provided that the proposer or bidder: (i) properly invokes the protections of the applicable sections of the Virginia Code, as amended, including, without limitation, Virginia Public Procurement Code Section 2.2-4342 for trade secrets or proprietary information prior to or upon submission of the data or other materials to be protected; (ii) clearly identifies the data or other materials in the proposal to be protected; and, (iii) states in writing the reasons why protection is necessary.

By submitting a proposal or bid, the submitting entity consents and agrees that, notwithstanding any express or implied claim of copyright, any and all documents and materials submitted to the Commission shall be the exclusive property of the Commission and are not subject to copyright and, as such, may be copied, however, the release of such documents shall be governed by applicable law, including, without limitation, the Virginia Freedom of Information Act.

E. Additional Requirements

Title VI Solicitation Notice

The Commission, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all proposers that it will affirmatively ensure that for 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.

Federal Fair Labor Standards Act (Federal Minimum Wage)

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

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. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor 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.

PART II - BID FORM 1

Roanoke Regional Airport Commission
Administrative Office
5202 Aviation Drive, N.W.
Roanoke, Virginia 24012

- A. The undersigned hereby proposes and agrees, if this Bid is accepted, to Contract with the Roanoke Regional Airport Commission, to sell, transport and deliver potassium acetate based runway de-icing anti-icing fluid to Roanoke Blacksburg Regional Airport, upon request, with no minimum or maximum quantity, for a period of approximately **three (3) years**, in accordance with this Bid Form, the Instructions to Bidders, the Proposed Contract (particularly the detailed specifications contained in Section 1.D. thereof), and any Addenda to the Request for Bid, as prepared by the Roanoke Regional Airport Commission, Roanoke, Virginia.

Year 1 Bid Price Per Gallon of Delivered Potassium Acetate Base Liquid Runway De-Icing/Anti-Icing Fluid, as more particularly described in Section I.D. of the Proposed Contract and based on an approximately 4,400-4,500 gallon shipment):

Price per Gallon: _____ (\$ _____)

Year 2 Bid Price Per Gallon of Delivered Potassium Acetate Base Liquid Runway De-Icing/Anti-Icing Fluid, as more particularly described in Section I.D. of the Proposed Contract and based on an approximately 4,400-4,500 gallon shipment):

Price per Gallon: _____ (\$ _____)

Year 3 Bid Price Per Gallon of Delivered Potassium Acetate Base Liquid Runway De-Icing/Anti-Icing Fluid, as more particularly described in Section I.D. of the Proposed Contract and based on an approximately 4,400-4,500 gallon shipment):

Price per Gallon: _____ (\$ _____)

TOTAL FOR THREE YEARS: _____

Commercial name of Liquid Potassium Acetate De-Icing/Anti-Icing Fluid being bid: _____

Manufacturer's Name and Address: _____

Location of Bidder's storage and distribution facility for this proposed contract:

Storage Capacity of Bidder's storage and distribution facility:

Approximately 4,400-4,500 gallons of Runway De-Icing/Anti-Icing Fluid **must be delivered within 24 hours after receiving each notice to proceed or purchase order from the Commission.**

- B. All bid quotes shall remain valid for 60 days.
- C. All prices quoted by the successful bidder shall remain in effect for the term of the Contract, and shall include all delivery, transportation, travel, and other incidental costs.
- D. **Bidder shall attach a certification by an independent laboratory demonstrating that the proposed product meets the requirements of SAE, AMS 1435, and shall include such other documentation as is necessary to demonstrate that its product meets all specifications contained in Section 1.4 of the proposed contract.**
- E. **Bidder shall include with its bid an MSDS for the Liquid Potassium Acetate De-Icing/Anti-Icing Fluid it proposes to sell to the Commission.**
- F. **If the de-icer/anti-icing fluid to be provided is not Nachurs Alpine RF-11, upon execution of the Contract, the seller shall submit written certification (s) as to whether the product can be mixed with any remaining Nachurs Alpine RF-11 in a holding tank without rendering either or both products ineffective or less effective.**
- G. At Commission's request, the seller shall provide comprehensive, on-site training to Commission's personnel.
- H. **Airport References (See Section I.B.2. of the Invitation to Bid):**

<u>Airport Name</u>	<u>City & State</u>	<u>Phone Number</u>	<u>Contact Person</u>	<u>Year(s) of Sales for Product Being Bid</u>

PART II - BID FORM 2

Compliance with state law; foreign and domestic businesses authorized to transact business in the Commonwealth

Pursuant to Virginia Code Section 2.2-4311.2 (effective July 1, 2010), each bidder or offeror organized or authorized to transact business in the Commonwealth of Virginia pursuant to Title 13.1 or Title 50 of the Code of Virginia, (1950), as amended, or as otherwise required by law, is required to include in its bid or proposal its Virginia State Corporation Commission (SCC) Identification Number. Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth of Virginia as a domestic or 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 offeror is not required to be so authorized.

Please complete the following:

A. _____ Bidder/Offeror is a Virginia business entity organized and authorized to transact business in Virginia and such bidder's/offeror's SCC Identification Number is:

_____.

B. _____ Bidder/Offeror is an out-of-state (foreign) business entity authorized to transact business in Virginia and such bidder's/offeror's SCC Identification Number is:

_____.

C. _____ Bidder/Offeror does not have an Identification Number issued to it by the SCC and such bidder/offeror is not required to be authorized to transact business in Virginia by the SCC for the following reason(s):

_____.

_____.

Please attach additional sheets of paper if more space is needed to explain why such bidder/offeror is not required to be authorized to transact business in Virginia)

NAME OF BIDDER _____

ADDRESS _____

SIGNATURE _____

NAME (TYPE OR PRINT) _____

OFFICIAL TITLE _____

DATE _____

TELEPHONE NO. (_____) _____

PART II - BID FORM - 3

EACH BIDDER MUST COMPLETE AND SIGN THE INFORMATION BLOCKS BELOW OR ITS BID SHALL BE DETERMINED NON-RESPONSIVE:

The undersigned hereby acknowledges the receipt of the following Addenda to the Contract Documents:

Addendum Number _____ Dated _____
Addendum Number _____ Dated _____
Addendum Number _____ Dated _____

State the complete legal firm name:

Delivery Address: _____

Mailing Address: _____

Telephone: _____ CELL: _____

Email Address: _____

Name of Authorized Representative

Title of Authorized Representative

Signature of Authorized Representative

Date

PART III
PROPOSED CONTRACT

**PART III - PROPOSED CONTRACT
PURCHASE OF RUNWAY DE-ICING/ANTI-ICING FLUID**

THIS CONTRACT is made and entered into this (void) day of (void) 2020, between the Roanoke Regional Airport Commission, a body corporate, (hereinafter referred to as "Commission" or "Purchaser") and _____ (void), (hereinafter referred to as "Seller" or "Contractor"), whereby for good and valuable consideration, including the promises set forth herein, the parties agree as follows:

1. GOODS AND SERVICES

1.1 General:

Seller hereby agrees to sell, transport and deliver Potassium Acetate Base Runway De-Icing/Anti-Icing Fluid ("de-icing fluid"), as identified by Seller in its bid and in compliance with the requirements contained in Section 1.2 below on an "as needed and requested" basis to the Roanoke Regional Airport Commission with no minimum quantity. Commission shall not be required to purchase any minimum amount of de-icing fluid from Seller under this Contract. In addition to, and not in lieu of, any other applicable warranties, Seller expressly warrants the runway de-icing fluid provided hereunder to be properly formulated, merchantable, and fit for the particular purpose for which it is intended.

1.2 Delivery:

1.2.1 All items shall be delivered to the Roanoke-Blacksburg Regional Airport's Airfield Maintenance Division located at 5075 Peters Creek Road, Roanoke, VA 24019, unless some other airport building or location is designated by the Commission.

1.2.2 All deicing/anti-icing fluid which is delivered must conform in every way to the specifications listed in Section 1.4 hereof. Substitution of materials or non-conformance with detailed specifications will be cause for rejection of the shipment and possible cancellation of the Contract.

1.2.3 The Seller shall deliver all goods within twenty-four (24) hours of the Commission's issuance of each purchase order or telephone request.

- 1.2.4 Seller shall provide and maintain a telephone contact available twenty-four hours per day to receive requests for shipment orders.

1.3 Inventory:

The Seller must maintain an adequate inventory on hand of the Potassium Acetate De-icing Fluid described in the Contract, so that required shipments, if any, can be ordered and delivered promptly as requested.

1.4 Detailed Specifications:

- 1.4.1 The runway de-icing/anti-icing fluid shall be a Potassium Acetate based solution which meets all requirements of the FAA approved specification SAE AMS 1435.
- 1.4.2 The solution shall be a minimum of fifty percent (50%) potassium acetate by weight plus corrosion inhibitors.
- 1.4.3 The solution shall have a ph between 9.0 and 11.5.
- 1.4.4 Solution shall have a freezing point less than -50° F.
- 1.4.5 Shipments shall be by tank truck with 4, 400 (+/- 100) gallons per truck.
- 1.4.6 Delivery shall be made within twenty-four (24) hours of receipt of request from the Commission's Airfield Manager or his designee. Seller shall notify Commission's representative of the approximate time for each delivery.

All deliveries shall be made to the Roanoke-Blacksburg Regional Airport Airfield Maintenance Building (Building #31) located at 5075 Peters Creek Road, Roanoke, VA 24019.

- 1.4.7 The Seller shall provide a telephone contact available to receive requests for shipments 24 hours per day, seven days per week, including all holidays.

- 1.4.8 Upon execution of the Contract, Seller shall provide the Commission a comprehensive technical information bulletin on the fluid provided, including, but not limited to the de-icing/anti-icing fluid's Safety Data Sheet, specifications, environmental impact, storage procedures and fluid properties.

Updates of such information shall be provided, as appropriate during the term of the Contract.

- 1.4.9 At the Commission's request, the seller shall provide comprehensive, on-site training to Commission's personnel. Said training shall at a minimum cover the fluid's performance, environmental and handling characteristics and procedures.

- 1.4.10 If the de-icer/anti-icer to be provided is not Nachurs Alpine RF-11, upon execution of the Contract, the Seller shall submit written certification(s) as to whether its product can be mixed with any remaining Nachurs Alpine RF-11 in a holding tank without rendering either or both products ineffective or less effective.

2. CONTRACT DOCUMENTS

The Contract document shall consist of this Contract, the Request for Bids and Instructions to Bidder, the Seller's Completed Bid Forms, the Independent Laboratory Certification and, a Material Safety Data Sheet which are attached hereto and incorporated herein by reference. In the event of any conflict or inconsistency between (i) this Contract and (ii) any other Contract document, the terms and conditions of this Contract shall prevail.

3. CONTRACT TERM

Unless sooner terminated or cancelled, this Contract shall begin upon date of execution and expire at midnight on June 30, 2023.

4. PAYMENTS

- 4.1 Payment will be made in accordance with Seller's bid within thirty (30) days after the satisfactory delivery, as determined by Commission, and acceptance by Commission of each shipment based upon the number of gallons actually delivered, and the submittal by Seller of a proper invoice.

A detailed invoice shall be sent to the Roanoke Regional Airport Commission, 5202 Aviation Drive, Roanoke, Virginia 24012.

- 4.2 Seller shall pay all applicable taxes, including sales tax on materials supplied.
- 4.3 Seller agrees that Commission may refuse to accept and/or withhold payment on any shipment which does not conform to the specification in Section I above, as determined solely by Commission, or which is unacceptable due to Seller's unsatisfactory performance under this Contract.
- 4.4 Prior to receiving any payments under this Contract, if the Seller is an individual, the Seller shall provide their social security number to the Commission and if the Seller is a proprietorship, partnership, or corporation, the Seller shall provide its federal employer identification number to the Commission.
- 4.5 Contractual claims by the Seller whether for money or other relief, shall be submitted in writing to Commission's Executive Director, with supporting documentation, no later than thirty (30) calendar days after the occurrence of the event giving rise to the claim; however, written notice of the Seller's intention to file such claim shall have been given to the Commission's Executive Director no later than within five (5) calendar days after the initial occurrence of the event upon which the claim is based. In reviewing the claim, the Executive Director may request any additional information or documentation for the Seller or other parties and may utilize appropriate assistance from Commission personnel or other sources. Any final decision in writing by the Executive Director shall be issued to the Seller within thirty (30) calendar days from the later of: (i) receipt of the written claim; or (ii) receipt of any additional information requested from Seller.
- 4.6 Payment of Subcontractors and Seller's Claims.
 - 4.6.1 The Seller shall take one of the two following actions within seven (7) days after receipt of amounts paid to the Seller by the Commission for work performed by any sub-contractor under this Contract;
 - a. Pay the subcontractor for the proportionate share of the total payment received from the Commission attributable to work performed by the subcontractor under the contract; or,

- b. Notify the Commission and the subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
- 4.6.2 The Seller shall pay interest to any sub-contractor on all amounts owed by the Seller that remain unpaid after seven (7) days following receipt by the Seller of payment from the Commission for work performed by the sub under the Contract, except for amounts withheld as allowed under sub-paragraph 4.6.1 (b) above. Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent per month.
- 4.6.3 The Seller shall include in its subcontracts a provision requiring each sub-contractor to include or otherwise be subject to requiring each sub-contractor to include or otherwise be subject to the same payment or interest requirements with respect to each lower-tier sub-contractor.
- 4.6.4 Seller's claims, disputes and other matters relating to the acceptability of the work, the interpretation or the requirements of the Contract, or the performance or furnishing of the work, including without limitation, requests for changes in the amount to be paid under the Contract, or increases in the time, shall be submitted to the Commission's Executive Director in writing with a request for a formal decision. Seller shall deliver written notice with supporting data for each such claim, dispute or other matter promptly, but in no event later than 5 calendar days after the start of the occurrence or event giving rise thereto. Seller's failure to submit written notice of such claim, dispute, or other matter with supporting data to Commission's Executive Director within the time specified shall be deemed to be and shall constitute a waiver by Seller of any and all claims for such matters and shall be an absolute bar to any future claim or suit against Commission for damages or relief of any kind based upon such occurrence or event.

Commission's Executive Director shall deliver a decision regarding such claim or dispute within 60 days of receipt of the claim. In reviewing any such claim or dispute, the Executive Director may request any additional information or

documentation from the Seller or other parties and may utilize appropriate assistance from other sources. Any final decision in writing by the Executive Director shall be issued to the Seller within ninety (90) calendar days from the later of: (i) receipt of the written claim; or (ii) receipt of any additional information requested from Seller. Failure of the Executive Director to render a decision within ninety (90) days shall be deemed a final decision denying claim by the Authority and shall not result in the Seller being awarded the relief claimed or in any other relief or penalty.

5. COMPLIANCE WITH LAWS AND LICENSING REQUIREMENTS

5.1 Seller confirms that it has all licenses and permits necessary to perform the work and that it shall maintain all such licenses and permits as may be required by Federal, State and local agencies during the term of the Agreement.

5.2 Seller expressly warrants that in performance of the Work it shall comply with all applicable laws, codes, regulations, standards, etc., which may be required of it by all applicable local, state and federal jurisdictions and their respective agencies, offices, bureaus, and other administrative/regulatory entities, including all OSHA laws and regulations.

6. SUBCONTRACTING AND ASSIGNMENT

Seller shall not assign this contract or any of its rights or duties hereunder, nor shall Seller subcontract any of the Work hereunder, without the prior written consent of Commission's Executive Director.

7. INDEMNIFICATION

Seller shall defend, indemnify, and hold harmless Owner and its officials, officers, agents, and employees, against any and all loss, cost, or expense, including reasonable attorney's fees, resulting from any claim, whether or not reduced to judgment, and for any liability of any nature whatsoever, that may arise out of or result from the Work or its performance by Seller or its subcontractor(s) or the violation of any of the terms and conditions of this Contract, including, without limitation, fines and penalties, violations of federal, state or local laws or regulations promulgated thereunder, personal injury, wrongful death or property damage claims, or Seller's breach of airport

security or failure to comply with security regulations as required herein, Seller's failure to follow proper equipment and vehicle procedures while in the AOA, or damage to or vandalism of the Seller's equipment or personal property stored on the Airport or used to perform the work. Should Seller inadequately remedy or fail to remedy a violation of this agreement after notification by Commission, Commission shall be authorized to take whatever corrective action Commission deems necessary to eliminate the violation, at the sole expense of Seller.

Seller's obligation to indemnify shall not be affected by the negligence of any party indemnified hereunder that in part contributed to the loss, cost, or expense, nor shall it be limited by any limitation on the amount or types of damages, compensation or benefits payable by or for Seller or any subcontractor under worker compensation acts, disability benefit acts or other employee benefit acts.

8. **INSURANCE**

A. Liability Coverage

Prior to execution of this Contract by Commission, Seller shall provide Owner's Executive Director suitable evidence of comprehensive general public liability occurrence-type insurance, that includes contractual liability and products and completed operations insurance, and automobile liability with any auto coverage and **pollution/site pollution coverage, naming Seller's employees and subcontractors, as well as the Commission, and its officials, officers, board members, volunteers agents, and employees, as additional insureds,** providing coverage against any and all claims and demands made by any person or persons whomsoever for injuries or death or property damage incurred in connection with or arising out of the work performed hereunder and including contractual liability coverage for the terms and conditions of this agreement, which policies shall provide limits of not less than \$5,000,000.00.

B. Workers Compensation

Prior to the execution of this Contract by Commission, the Seller shall obtain, maintain and show evidence of statutory Worker's Compensation and Employer's Liability Insurance for all of its employees engaged in the Work. Such insurance shall be maintained throughout the term of this Contract. In case any such work is subcontracted, the Seller shall require the Subcontractor to provide such insurance for all of its employees engaged in the Work.

C. Notice to Commission

Seller shall immediately notify the Commission in writing of any changes, modifications, expiration and/or termination of any insurance coverages and/or policies required by this Contract.

D. Umbrella Policy

The required limits of insurance for this Contract may be achieved by combining underlying primary coverage with an umbrella liability coverage to apply in excess of the general and automobile liability provided that such umbrella liability policy follows the form of the underlying primary coverage.

E. Insurance Company

Insurance coverage shall be in a form and with an insurance company approved by the Commission, which approval shall not be unreasonably withheld. Any insurance company providing coverage under this Contract shall be authorized to do business in the Commonwealth of Virginia.

F. No Exclusions

The Seller's insurance policies and/or coverages shall not contain any exclusion for the Seller's sub-contractors.

G. Maintenance of Insurance

The continued maintenance of the insurance policies and coverages required by this Contract during the time that the Seller is working for the Commission is a continuing obligation, and the lapse and/or termination of any such policies or coverages without the approved replacement policies and/or coverages being obtained shall be grounds for termination of the Seller for default.

H. Insurance Not to Be Limit on Liability

Nothing contained in the insurance requirements is to be construed as limiting the liability of the Seller, and/or its sub-contractors, or their insurance carriers may have under this Contract, including without limitation the indemnification provision contained herein. The Commission does not in any way represent that that the coverages or limits of insurance specified are sufficient or adequate to protect the

Seller's interest or liabilities, but are merely minimums. The obligation of the Seller, and its sub-contractors, to purchase insurance shall not in any way limit the obligations of the Seller in the event that the Commission or any of those named above should suffer any injury or loss in excess of the amount actually recoverable through insurance. Furthermore, there is no requirement or obligation for the Commission to seek any recovery against the Seller's insurance company before seeking recovery directly from the Seller.

9. HAZARDOUS AND OTHER WASTE, MATERIALS AND SUBSTANCES

A. Seller shall not dispose of or release any wastes of any kind, whether hazardous or not, on Commission's property.

B. Seller shall remove from Commission property all waste and debris arising from its work at the airport and shall dispose of it properly, in accordance with all applicable laws. In particular, Seller shall remove all new, used and empty paint cans; all new and used solvents and cleaners; and rags, cloths, etc. used in conjunction with the Work.

C. Seller shall not bring or allow or permit to be brought onto Commission property and shall not dispose of or release onto or from the Commission property any hazardous, toxic or petroleum material, substance, or waste. Compliance with all environmental laws shall be Seller's sole responsibility at its sole cost. Seller shall immediately furnish to the Commission's Executive Director written notice of any and all releases of hazardous wastes, materials or substances whenever such releases are required to be reported to any federal, state or local authority, and pay for all clean up and removal costs. Such written notice shall identify the substance released, the amount released, and the measures undertaken to clean up and remove the released material and any contaminated soil or water, and shall further certify that no contamination remains. Vendor shall also provide Commission with copies of any and all reports resulting from tests on Commission property or made to any governmental agency which relate to Airport property.

D. Environmental Indemnification: Regardless of Commission's acquiescence and in addition to indemnification provisions contained elsewhere in this Agreement, Seller shall defend, indemnify, and hold Commission, its officers, officials, agents, Board Members, volunteers and employees, harmless from all costs, liabilities, fines or penalties, including attorney's fees, resulting from or arising out of violation of this section and agrees to reimburse said parties for any and all costs and expenses incurred in

eliminating or remedying such violations. Seller further covenants and agrees to reimburse Commission and hold Commission its officers, agents and employees harmless from any and all costs, expenses, attorney's fees and all penalties or civil judgments obtained against the Commission as a result of Seller's use, release or disposal of any petroleum product, hazardous substance, material, or waste onto the ground or into the water or air.

10. CANCELLATION

10.1 For Cause

The Owner's Executive Director may cancel and terminate this Contract upon written notice to Seller whenever Commission determines, in Commission's sole and exclusive discretion, that Seller's products and services fall below the quality of products and services generally provided by others for similar types of products and services, or Seller has failed to perform in accordance with this Contract. Prior to any such cancellation and termination, Seller shall be given written notice and five (5) days to cure such failures. Default by Seller hereunder shall constitute a basis for determining future Contracts that Seller is not a responsible bidder and for Commission to refuse to award such future Contracts to seller.

In the event that Seller defaults in the performance of any of the terms, conditions or agreements contained in this Contract, and Commission places the enforcement of all or part of this Contract in the hands of any attorney for enforcement, including the filing of a suit upon the same, Seller agrees to pay all of the Commission's reasonable attorney's fees and costs related to any such proceeding.

10.2 Without Cause

The Executive Director of the Commission may cancel the Contract without cause at any time upon ten (10) days advance written notice, provided that Seller shall be paid for all goods ordered on or before the effective date of such cancellation upon their satisfactory delivery and acceptance.

11. ENTIRE AGREEMENT

This contract embodies the entire understanding between the parties. There are no oral agreements or representations in connection herewith.

12. REQUIREMENTS IMPOSED BY STATE and FEDERAL LAW

12.1 NON-DISCRIMINATION

A. During the performance of this contract, the Seller agrees as follows:

- (1) The Seller will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Seller. The Seller agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- (2) The Seller, in all solicitations or advertisements for employees placed by or on behalf of the Seller, will state that such Seller is an equal opportunity employer.
- (3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

B. The Seller will include the provisions of the foregoing paragraphs 1. 2. and 3. in every subcontract or purchase order of over \$10,000.00 so that the provisions will be binding upon each subcontractor or vendor.

C. The Roanoke Regional Airport Commission does not discriminate against faith-based organizations.

12.2 DRUG- FREE WORKPLACE

During the performance of this Contract, the Seller agrees to (i) provide a drug-free workplace for the Seller's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Seller's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all

solicitations or advertisements for employees placed by or on behalf of the Seller that Seller maintains a drug-free workplace; and, (iv) include the provisions of the foregoing clauses in every sub-contract or purchase order over \$10,000 so that the provisions will be binding upon each such sub-contractor or vendor.

12.3 EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

Seller certifies that it does not, and shall not during the performance of the Contract for goods and services in the Commonwealth employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986.

12.4 EEO CLAUSE

“This Contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741(a). These regulations prohibit discrimination against qualified individuals and protected veterans on the basis of disability or veteran status and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities and protected veterans.”

12.5 GENERAL CIVIL RIGHTS PROVISIONS

The contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

Title VI Clauses for Compliance with Nondiscrimination Requirements (Source: Appendix A of Appendix 4 of FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration)

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 consultants) will comply with the Title VI List of Pertinent Nondiscrimination Statutes 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. Non-discrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, 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.

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 supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination 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 Acts, Regulations, 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 supplier 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.

Title VI List of Pertinent Nondiscrimination Authorities

(Source: Appendix E of Appendix 4 of FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration)

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 U.S.C. § 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 U.S.C. § 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 U.S.C. § 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 U.S.C. § 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 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 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 discrimination 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 U.S.C. 1681 *ET seq.*).

12.6 EVIDENCE OF AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA

Pursuant to 2.2-4311.2 (A) of the Code of Virginia (1950), as amended, if the Seller is organized as a stock or non-stock corporation, limited liability company, business trust or limited partnership or registered as a registered limited liability partnership, the Seller shall be and remain 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 Code of Virginia (1950), as amended, or as otherwise required by law and shall provide evidence of such upon request by the Commission. If the Seller is such a business entity, the Seller shall not allow its existence or its authority or registration to transact business in the Commonwealth, to lapse if so required under Title 13.1 or Title 50, or to be revoked or cancelled at any time during the term of the Contract. The Commission may void this contract if the Seller fails to remain in compliance with the provisions of this section.

12.7 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The Contractor/Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The Contractor/Consultant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor-Wage and Hour Division.

12.8 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. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor 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.

13. GOVERNING LAW AND VENUE

This Contract shall be governed by the laws of the Commonwealth of Virginia, both as to interpretation and performance; without giving effect to Virginia's choice of law provisions. Every action brought under or related to this Contract shall be brought in a Virginia court of competent jurisdiction in the City of Roanoke or in the United States District Court for the Western District of Virginia, Roanoke, Virginia.

14. SEVERABILITY

Any provision or part of this Contract held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be binding upon the parties hereto, who agree that the Contract shall be reformed to replace such stricken provision or part thereof

with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

15. SURVIVAL

All representatives, agreements, covenants, and indemnifications made in or given by Seller in this Contract shall survive the completion of all services under this Contract and the termination of this Contract for any reason

16. DUPLICATE COPIES

This Contract may be executed in any number of counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

17. HEADINGS

The headings used in this Contract are intended for convenience of reference only and do not define, expand, or limit the scope or meaning of any provision of this Contract.

18. NOTICES

Forms of Notice. Unless otherwise specified, all notices, consents and approvals required or authorized by this Contract to be given by or on behalf of either party to the other, shall be in writing and signed by a duly designated representative of the party by or on whose behalf they are given, and shall be deemed given three days after the time a certified letter, properly addressed, postage prepaid, is deposited in any United States Post Office, or upon delivery by hand, or upon delivery by overnight express carrier.

A. Notice to Commission. Notice to Commission shall be addressed to it and delivered at the office of the Executive Director, Roanoke Regional Airport Commission, 5202 Aviation Drive, Roanoke, Virginia 24012, or at such other office as Commission may hereafter designate by notice to Seller in writing.

B. Notice to Seller. Notice to Seller shall be addressed and delivered to:

_____, or at such other

Office in the continental United States as Seller may hereafter designate by notice to Commission in writing.

19. CERTIFICATION

The undersigned individual executing this agreement on behalf of Seller certifies and warrants that he or she is authorized to enter into this agreement and bind Seller to all of the terms and conditions contained herein.

END OF CONTRACT TERMS

WITNESS the following signatures:

Seller: (To be completed after bid awarded)

By: (not for signature)
Title: N/A
Date: N/A

Attest: N/A
Title: N/A

Roanoke Regional Airport Commission

By: N/A
Title: Executive Director
Date: _____

Attest: N/A
Title: Commission Secretary

Certification of Funding.

By: _____
Treasurer
Roanoke Regional Airport
Commission

Account Number

Approved for legal form.

By: _____
General Counsel
Roanoke Regional Airport
Commission