

ROANOKE REGIONAL AIRPORT COMMISSION

REQUEST FOR PROPOSALS

FOR

**PROFESSIONAL
AIRPORT PLANNING/ENGINEERING SERVICES**

RELATING TO PREPARATION OF AN AIRPORT MASTER PLAN

FOR THE ROANOKE-BLACKSBURG REGIONAL AIRPORT

RFP No. 18-025

REQUEST FOR PROPOSALS
FOR PROFESSIONAL
AIRPORT PLANNING/ENGINEERING SERVICES
RELATED TO PREPARATION OF AN AIRPORT MASTER PLAN FOR THE ROANOKE-
BLACKSBURG REGIONAL AIRPORT
RFP No. 18-025

The Roanoke Regional Airport Commission hereby requests Proposals from airport planning/engineering firms for professional services relating to the preparation of an Airport Master Plan for the Roanoke-Blacksburg Regional Airport. The successful respondent shall have a recent background in preparing Airport Master Plans for commercial service airports with a particular focus on forecasting, airfield analysis, determining critical aircraft, land use planning, environmental planning encompassing sustainability, and financial planning.

Interested firms should contact the Roanoke Regional Airport Commission, 5202 Aviation Drive, Roanoke, VA 24012, telephone (540) 362-1999, attention Erin Henderson, to obtain a copy of the Request for Proposals (RFP No. 18-025) or download a copy of the RFP at <https://www.flyroa.com>. Proposals must be prepared and submitted in accordance with the guidelines contained in the RFP, until 2:00 P.M. local time prevailing on January 7, 2019.

A pre-proposal meeting will be held at 10:00 a.m. on December 12, 2018 in the Commission's Conference Room A, located on the second floor of the terminal building. Although not mandatory, it is strongly recommended that any potential respondents should attend. No site tours will be offered.

All Proposers shall endeavor to afford Disadvantaged Business Enterprises (DBE's) a reasonable opportunity to participate in this project. This project will be funded, at least in part, with federal AIP funds, so the Commission has established a project goal of 4.4% for DBE participation by the successful respondent. In addition, minority business enterprises will be afforded full opportunity to submit proposals in response to this solicitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration for an award.

The Roanoke Regional Airport Commission reserves the right to waive any informalities, technicalities, or irregularities in a Proposal, or to reject any and all Proposals, or to re-advertise for Proposals and to award or refrain from awarding the Contract for the services specified.

The Roanoke Regional Airport 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 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.

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REQUEST FOR PROPOSALS
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ROANOKE-BLACKSBURG REGIONAL AIRPORT
RFP No. 18-025

The Roanoke Regional Airport Commission ("Commission") invites firms of Airport Planners/Engineers (the "Respondent") to submit a Proposal for the preparation of an Airport Master Plan for the Roanoke-Blacksburg Regional Airport.

All Proposals must be prepared and submitted in accordance with the following directions and requirements.

SECTION A. INSTRUCTIONS FOR PROPOSALS

1. Commission Contact:

The Commission's Director of Planning and Engineering, Diana Lewis, is the primary contact for this Request for Proposal (RFP), and will provide written information and answers to questions concerning the content of this RFP in response to written, emailed (dianalewis@flyroa.com) or faxed (540) 563-4838 inquiries received no later than 5:00 PM on December 19, 2018. Copies of all written responses by Commission will be provided to all firms of record who have requested an RFP package.

2. Pre-Proposal Meeting

A pre-proposal meeting will be held at 10:00 a.m. on December 12, 2018 in the Commission's Conference Room A, located on the second floor of the terminal building (5202 Aviation Drive, Roanoke, VA 24012). Reservations should be made in advance by emailing Erin Henderson, Contract Administrator, at erin.henderson@flyroa.com.

While attendance by potential proposers is encouraged, the meeting is not mandatory.

3. Proposal Format and Content:

- a.) The Proposal will be limited to a maximum of 35 written pages, plus the completed compliance and certification forms included herein as Section E. Attachments "A" and "B."

- b.) Five (5) hard copies and one electronic version of the Proposal must be submitted.
- c.) The Proposal shall consist of a clear, concise and relevant presentation of requested information including the project approach, which shall easily demonstrate the Respondent's compliance with this RFP.
- d.) The Respondent's Proposal will be attached to and made a part of the written contract (see Section F), except to the extent the Proposal is modified by the written agreement of the parties or is inconsistent with the contract, and must include information concerning the following:
 - i.) Background of Respondent; including professional qualifications, breadth of services offered, financial resources, depth of personnel, office location(s), and reputation for timeliness, cost control, integrity and competence.
 - ii.) Recent experience (dating no earlier than 2014) of Respondent in undertaking Airport Master Plans for commercial service airports as outlined in Section B.5 below. Include name of airport contact person and phone number, nature of project/work, the office or branch performing the work, date of completion, and whether Respondent was a prime or sub-consultant. Do not include a project if its key personnel are no longer with the firm or are not expected to be assigned to the proposed contract. **Respondent should specifically identify (by asterisk or otherwise) three recent contracts that best represent the proposed work and also include the key personnel involved in such projects.**
 - iii.) Identify the office that will perform the work. If a branch office will do the work, the identity and capability of such office to perform independently of the home office; and/or the nature of, and capability to obtain, necessary support from the home or another branch office.
 - iv.) Identification of the project team, in particular the Contract Manager and the Commission's day-to-day contact, and including the role each individual will play, and the extent of involvement by each in the work. Include office location of all such individuals.

- v.) Experience and technical qualifications of all individuals designated to provide significant services on the proposed contract. In particular expertise in forecasting, airfield analysis, financial planning, and critical aircraft determinations, land use planning and environmental planning including sustainability must be highlighted.
- vi.) Relevant experience of key personnel in performing similar services or projects, especially the Contract Executive and the Contract Manager. Include airport names, contact person and phone number, year work was completed, firm for whom he/she worked during the project, and role or position he/she held during the project.
- vii.) Availability of key personnel for the contract work; current workload of proposed contract executive, contract manager, and other key personnel, including multi-year engagements and projects.
- viii.) Respondent's capacity to sustain loss of key personnel and/or major subconsultant(s).
- ix.) Identity of subconsultants and information as to the technical qualifications, specialty, experience and role of proposed subconsultant(s), and their key employees and principals who would be working on the projects under the contract. Indicate whether and on what projects Respondent has worked with such subconsultants in the past.
- x.) Relevant experience of personnel anticipated to provide significant services on the project for major subconsultants. Include airport names, contact person and phone number, year work was completed, firm for whom he/she worked during the project.
- xi.) A detailed discussion of how Respondent would become familiar with the airport, its operation and procedures, its personnel, the security and other laws under which it operates, etc.
- xii.) A detailed discussion of the tasks or steps the Respondent would undertake the project approach, including the identification of potential problems and possible concerns to Airport management.

- xiii.) Identification of exceptions to the proposed contract, including specific language proposed for any modifications to the contract terms.
- xiv.) Respondent's familiarity with the requirements pertaining to grant procedures/requirements and the use of Federal AIP funds, particularly as they pertain to this type of project.
- xv.) Respondent's familiarity with the use of state aviation entitlement funds and eligibility requirements.
- xvi.) Respondent's familiarity with PFC eligibility for projects for non-hub airports.
- xvii.) Respondent's familiarity with the latest versions of FAA Advisory Circulars (AC) including those related to preparation of Airport Master Plans, Airport Design, Aeronautical Surveying, as well as other applicable AC's.
- xviii.) Respondent is authorized to do business in Virginia as evidenced by a satisfactorily completed Compliance Form (see Section "E" Attachment "A" of this RFP).

4. Submission and Opening of Proposals:

- a.) The Proposal, without any information on proposed staff-hours, costs or fees, should be mailed or delivered in a sealed envelope clearly marked in the lower left hand corner "PROPOSAL FOR PROFESSIONAL AIRPORT PLANNING/ENGINEERING SERVICES RELATING TO AIRPORT MASTER PLAN, RFP No. 18-025 to the offices of the Airport Commission no later than 2:00 PM local time prevailing on January 7, 2019. Proposals must be addressed as follows:

Cathy Bowman, Commission Secretary
Roanoke Regional Airport Commission
5202 Aviation Drive
Roanoke, VA 24012

- b.) Only proposals received in the Commission's Administrative Offices, Second Floor Terminal Building, prior to the date and time specified in 4.a.) above shall be considered. Proposals received after said time and date will be returned unopened. The time and date of receipt shall be recorded on the envelope(s). There shall be no public opening of any proposal submissions.

- c.) All proposals submitted pursuant to this RFP will become the property of the Commission and will not be returned. Trade secrets or proprietary information submitted by a Respondent may not be subject to the Virginia Freedom of Information Act (Section 2.2-3700 et seq.), provided that the Proposer: (i) properly invokes the protections of 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, the Respondent consents and agrees that, notwithstanding any express or implied claim of copyright, any and all proposal documents submitted to the Commission are not subject to copyright and, as such, may be copied; however, the release of such documents shall be governed by applicable law, in particular the Virginia Freedom of Information Act.

SECTION B. ADDITIONAL INFORMATION TO ASSIST RESPONDENTS

1. <u>Tentative Schedule for Proposal Process:</u>	<u>Dates</u>
a.) Advertise for Proposals:	December 3, 2018
b.) Pre-Proposal Meeting at 10:00 AM	December 12, 2018
c.) Deadline for written questions submittal by 5:00 PM	December 19, 2018
d.) Proposals are due by 2:00 PM	January 7, 2019
e.) Review by Commission is completed and short-list of Respondents selected for interview	January 14, 2019
f.) Notify short-listed Respondents to schedule interviews:	January 14, 2019
g.) Interviews to be conducted with selected Respondents	January 23, 2019
h.) Complete evaluations and reference checks	January 29, 2019

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|-----|---|-------------------------|
| i.) | Final ranking of Respondents: | January 29, 2019 |
| j.) | Notify Respondents of outcome: | January 30, 2019 |
| k.) | Develop detailed scope of services and negotiate fee with Respondent ranked #1: | Feb. 1 - April 12, 2019 |
| l.) | Obtain and resolve independent fee review and complete negotiations: | April 30, 2019 |
| n.) | Recommend to Commission for authorization to award subject to receipt of AIP Grant: | May 15, 2019 |
| o.) | Complete Grant Application: | June 1, 2019 |
| p.) | FAA Grant Issued: | July 1, 2019 |
| p.) | Notice to proceed: | August 2019 |

2. Background:

The Roanoke-Blacksburg Regional Airport is a non-hub commercial service airport located in Roanoke, Virginia and serves the Roanoke and New River Valleys and other surrounding communities. The Airport encompasses 912 acres, has two crosswind runways (6/24 and 16/34) and in Calendar Year 2017 served 616,365 total passengers with 51,474 total aircraft operations. The Airport is owned and operated by the Roanoke Regional Airport Commission that is seeking to retain a consultant to provide the professional services required for an Airport Master Plan. The Commission is seeking to contract with a firm with recent Airport Master Plan experience at commercial service airports with particular strengths in forecasting, airfield analyses, a focus on critical aircraft, comprehensive land use planning, and financial planning. It will also be desirable to incorporate appropriate elements of the Virginia Sustainability Management Plan.

The Commission specifically retains the right to cancel all or part of the any project and/or any phase of a project with or without cause, paying the successful Respondent for all work satisfactorily performed up to the date of cancellation.

The selection of the consultant for the Airport Master Plan will preclude that consultant from any future construction related services for major projects that may be recommended in the Airport Master Plan.

Please be advised that the Commission does not utilize AIA documents for its professional services or construction contracts.

Respondents are also advised that the Commission will seek federal AIP funds, state entitlement and/or discretionary funds, or it may seek PFC reimbursement of any funds previously expended, for the Master Plan project. In such case, Respondent shall comply with all applicable rules, regulations, procedures, reporting requirements, etc. related to the acceptance, use and/or expenditure of such funds.

3. Reservation of Right:

The Commission specifically reserves the right not to enter a contract with any firm responding to this RFP, reject all proposals and, at its sole discretion, may re-advertise for Proposals for any part or all of the project referenced in this RFP.

4. Terms and Conditions of the Contract

A description and identification of the nature of the Projects is provided in Section B.5 below. In addition to the general description below for the project, the general requirements and the contractual terms and conditions to govern the successful Respondent and the Commission, are included in the Section F “The Proposed Contract.”

5. Scope of Work:

The previous Airport Master Plan Update completed in 2008. Since that time, airlines have merged and significant regional economic growth has occurred such as the expansion of Virginia Tech-Carilion School of Medicine; the location of Eldor Corporation, an Italian automotive ignition systems manufacturer, in nearby Botetourt County; and the attraction of nationally recognized west coast breweries including Ballast Point and Deschutes who have chosen the Roanoke Valley for their east coast locations. This growth has triggered a demand for non-stop destinations to the west and along the north-south corridor. An Airport Master Plan, meeting all requirements of the FAA AC 150/5070-6B and FAA AC 150/5100-14E or latest editions is required to prepare the Airport for the anticipated increasing demand for commercial and general aviation services while examining the surrounding land uses, zoning, and comprehensive plan in order to support a potential commerce/transportation center surrounding and within the airport boundaries. It is anticipated that the Airport Master Plan will focus in particular on forecasting demand for the next 20 years, analyzing existing and future airfield upgrades needed, identifying critical aircraft, confirming terminal capacity and general aviation facility needs,

examining land uses on and off airport to promote economic development and compatible land uses, confirming roadway capacity on and around the airport, developing finance plans to fund anticipated capital projects, and updating the Airport Layout Plan and Exhibit A.

6. Contract Administration:

The successful Respondent will be paid on not-to-exceed, cost plus fixed fee basis at the rates negotiated between the parties and incorporated into the contract. Any later change to the scope of services, will be negotiated and incorporated into the Contract by written amendment.

7. Schedule:

It is anticipated that the Commission will award the contract for these professional services in spring or early summer of 2019 contingent on the award of a FAA Airport Improvement Program Grant.

8. Other Projects:

The Commission anticipates that work on other projects, perhaps involving other Consultants, will be undertaken during the time the successful Respondent is undertaking services pursuant to this Contract. The successful Respondent shall cooperate with and provide whatever relevant information may be required, if any, by other consultants and contractors working for the Commission.

9. DBE Participation:

This will be a federally funded project and the Roanoke Regional Airport Commission has established a DBE goal of 4.4% for the professional services on this project.

In such case, the Respondent shall make good faith efforts, as defined in Appendix A of 49 CFR Part 26, to subcontract the dollar value of the prime contract to small business concerns owned and controlled by socially and economically disadvantaged individuals (DBE) equal to or exceeding the goal established by the Commission. Individuals who are presumed to be socially and economically disadvantaged include women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, and Asian-Indian Americans. Each Respondent will be required to submit information with its Proposal concerning the DBE's that will participate in the proposed contract. The information will include: (1) the name and address of each DBE; (2) a description of the work to be performed by each named firm; (3) proof of DBE certification and (4) percent of the dollar value of the contract which will be paid to the DBE. Prior to the contract being

executed, the Successful Respondent shall be required to provide a written and signed confirmation from the DBE(s) that it is or they are participating in the contract as provided in the Successful Respondent's proposal. If the Respondent fails to achieve the contract goal stated herein, it will be required to provide documentation demonstrating that it made a good faith effort to do so.

Roanoke Regional Airport Commission's DBE liaison officer is David Jeavons, who is available at (540) 362-1999. Its DBE Program and Plan will be made available for review to any Respondent upon request.

10. Fee Review for AIP Funded Projects:

Federal Grant Regulations require that an independent fee review be undertaken by the Commission for any AIP funded contract where the Consultant's fee will meet or exceed \$100,000.00. The successful Respondent shall fully and completely cooperate and participate in any such process.

SECTION C. EVALUATION AND SELECTION PROCESS

1. Initial Evaluation of Proposal:

Based on the written Proposals received and the applicable evaluation criteria specified below, two or more Respondents deemed fully qualified, responsible and suitable to provide the requested services will be selected for discussions in a panel interview format. Individual interviews will then be scheduled with the selected Respondents on January 23, 2019.

All other Respondents shall be notified that they were unsuccessful.

2. Interview Process:

Interviews will be conducted at the offices of the Commission and will be no longer than one hour in length, with a minimum of fifteen minutes being reserved for questions by the Evaluation Panel. Please note the scheduled date for the interviews listed in the RFP.

The executive/partner/principal of Respondent assigned to the contract, as well as the proposed Contract manager, shall be required to attend the interview. No sales or marketing personnel shall be present.

Proposed significant subconsultants may be asked or permitted to attend the interview.

Based upon the written Proposals, interview and the applicable evaluation criteria specified below, the panel shall rank those firms which have been interviewed.

3. Initial Evaluation Criteria:

Respondents and their Qualifications Proposals will be evaluated based on the following criteria:

a.) **Responsiveness to Request for Proposals – 15 Points**

- i.) Requested information provided.
- ii.) Clear and concise presentation with a focus on anticipated project approach.
- iii.) Clear understanding of the nature and scope of the services and commitment to meet DBE goal of 4.4%.
- iv.) Exceptions to the proposed contract.

b.) **Respondent's Capability to Provide the Services – 15 Points**

- i.) Background of the Respondent, including professional qualifications.
- ii.) Recent relevant experience of the Respondent.
- iii.) Capacity to sustain loss of key personnel or subconsultant.
- iv.) Capability of main or branch office responsible for the project to perform independently or obtain necessary support.
- v.) Respondent has completed and returned the Compliance Form (see Section E. Attachment A) and is authorized to do business in Virginia.

c.) **Staffing Plan - 15 Points**

- i.) Provision for required disciplines and skills.
- ii.) Provision for participation by Respondent's key personnel.

- iii.) Qualifications and relevant experience of proposed team members.
 - iv.) Qualifications and relevant experience of proposed subconsultant firms
 - v.) Qualifications and relevant experience of subconsultant personnel who will be assigned to the project.
- d.) **Similar Experience – 20 points**
- i.) Respondent's previous experience within last five years on similar projects.
 - ii.) Contract Manager's previous experience on similar projects.
 - iii.) Other key personnel's previous experience on similar projects.
 - iv.) Subconsultants' previous experience on similar projects.
 - v.) References for Respondent, key personnel and subconsultants.
- e.) **Schedule and Plan for Project - 25 Points**
- i.) Respondent's plan for becoming familiar with the Airport, its personnel, operations, legal and other requirements.
 - ii.) Respondent's anticipated project approach for initiating and undertaking an Airport Master Plan.
 - iii.) Current workload and availability of key personnel for the work.
- f.) **Other Experience and Knowledge - 10 Points**
- i.) Familiarity with state aviation grant discretionary and entitlement project eligibility.

- ii.) Familiarity with PFC eligibility of non-hub terminal projects.
- iii.) Familiarity with FAA AIP grant program and requirements.

SECTION D. CONTRACT AWARD

1. General:

The Commission specifically reserves the right to enter into a contract with one Respondent, to reject all proposals for this specific contract, and/or to issue a new Request for Proposals at any time.

2. Negotiations:

At the conclusion of interview process described in Section C.2. above, based on evaluation factors identified in this Request for Proposals and all information developed during the selection process to this point, the two or more Respondents whose qualifications and proposed services are deemed most meritorious shall be selected in order of preference. Negotiations shall then be conducted, beginning with the Respondent ranked first to more fully develop and define a scope of services and contract terms. All remaining Respondents shall be informed that negotiations have been initiated with the firm ranked first.

Based on the contract negotiated and agreed upon by both parties, the first ranked Respondent shall submit a proposed fee schedule for itself and its significant subconsultants, to remain in effect for the term of the contract. This submission shall also contain a listing of fees by personnel name, employee number, level or type, e.g. principal, project manager, engineer, etc.; and similar listings for proposed subcontractors. In addition to charges for labor, the successful Respondent shall propose the mark up percentage(s) for out of pocket costs and reimbursable expenses, such as subconsultants, printing, and other out-of-pocket expenses expected to be incurred. Travel expenses must follow the GSA travel reimbursement guidelines. The fee schedule must be cost plus fixed fee.

If a contract that is satisfactory and advantageous to the Commission can be negotiated at a price considered fair and reasonable, authorization to award to that Respondent shall be recommended for formal approval and award by the Commission and subject to FAA concurrence if AIP funded. Otherwise, negotiations with the Respondent ranked first shall be formally terminated and negotiations conducted with the Respondent ranked

second, and so on, until such a contract can be negotiated at a fair and reasonable price.

3. Contract Award:

The Executive Director is expected to make a recommendation of contract award to the Roanoke Regional Airport Commission for its consideration and approval. Formal award of the contract is expected to be made by the Commission after considering the recommendation of the Executive Director.

4. Rejection of Proposals:

The Commission reserves the right to accept or reject any and all proposals, and to waive any informality in any proposal.

5. Execution of Contract:

The successful Respondent shall be required, within twenty (20) consecutive calendar days after the receipt of a notice of contract award and the proposed contract, to sign and return the Contract in substantially the form contained herein, as well as any required insurance documentation and the Certification of Consultant (see Section "E" Attachment "B"). Should the successful Respondent fail to sign and return the Contract, insurance, and Certification within the time allowed, the Executive Director may proceed to negotiate with the next highest ranked Respondent and the Commission will rescind the earlier award and re-award the Contract at a later meeting.

6. Final Award:

The award shall not be final and effective, nor shall the Commission be legally bound, until the Commission has approved the award, the FAA has approved the award if desired by the Commission and provided a grant offer, and the contract has been the fully executed and returned to the successful Respondent.

All remaining Respondents will be informed of the final award.

7. No Debriefing of Respondents:

The Commission uses a panel format for evaluations of all proposals and interviews; as a result, no single individual is responsible for determining the ranking of the various Respondents, nor is a single individual privy to each panelist's ideas concerning the strengths or weaknesses of each Respondent's proposal and presentation. **Therefore, no debriefing by or regarding Respondents will occur.**

SECTION E

Attachment A

COMPLIANCE FORM

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 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/OFFEROR _____

ADDRESS _____

SIGNATURE _____

NAME (TYPE OR PRINT) _____

OFFICIAL TITLE _____

DATE _____

TELEPHONE NO. () _____

EMAIL: _____

SECTION E
ATTACHMENT B

CERTIFICATION OF CONSULTANT

AIRPORT IMPROVEMENT PROJECT 3-51-0045-(Pending)

I hereby certify that I am the _____ and duly authorized representative of the firm of _____ whose address is _____ and that neither I nor the above firm I here represent has:

- (a) employed or retained for a commission, percentage, brokerage contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract,
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or
- (c) paid or agreed to pay any firm, organization, or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract, except as here expressly stated (if any): none

I acknowledge that this certification is to be furnished to the Federal Aviation Administration of the United States Department of Transportation in connection with this contract involving participation of Airport Improvement Program (AIP) funds and is subject to applicable state and federal laws, both criminal and civil.

BY: _____

Title: _____

Date: _____

SECTION F. PROPOSED CONTRACT

PROPOSED CONTRACT FOR PROFESSIONAL AIRPORT PLANNING/ENGINEERING SERVICES TO PREPARE AN AIRPORT MASTER PLAN FOR THE ROANOKE-BLACKSBURG REGIONAL AIRPORT

**ROANOKE REGIONAL AIRPORT COMMISSION
AGREEMENT FOR
PROFESSIONAL AIRPORT PLANNING/ENGINEERING SERVICES RELATED TO
PREPARATION OF AN AIRPORT MASTER PLAN FOR THE ROANOKE-
BLACKSBURG REGIONAL AIRPORT**

THIS AGREEMENT ("Contract"), made at Roanoke, Virginia, this ___ day of _____, in the year 201__, by and between the Roanoke Regional Airport Commission (the "Owner" or "Commission"), and _____ ("Consultant") , pursuant to Resolution No. _____, adopted by the Commission on _____, 201__.

WITNESSETH:

WHEREAS, the Commission desires to retain the Consultant to provide professional services related to the preparation of an Airport Master Plan for the Roanoke-Blacksburg Regional Airport (the "Work" or "Services"); and

WHEREAS, the Consultant agrees to furnish some or all of the necessary professional services set forth herein, as requested;

NOW THEREFORE, in consideration of the benefits which will accrue to the parties hereto by virtue of this Contract and respective covenants herein contained, **IT IS MUTUALLY COVENANTED AND AGREED AS FOLLOWS:**

ARTICLE 1- GENERAL PROVISIONS

1.1 **General Conditions.** General Conditions applicable to this Contract, the Project and the actions of the parties hereto, are attached as **Exhibit "1"** and by this reference fully incorporated herein.

1.2 **Notice to Proceed.** The Consultant shall not proceed to furnish professional services on any Phase of the Project pursuant to this Contract until the Commission's Executive Director has given a Notice to Proceed in writing.

1.3 **Engineer/Architect's Certificate.** Prior to the Commission's execution of this Contract, the Consultant shall return to the Commission, after due execution, the "Certificate of Engineer/Architect" which is attached to Section E of the RFP as Attachment B.

1.4 **Effective Date.** This Contract shall not be effective until all of the following events have occurred: (1) the Commission has awarded the Contract to the Consultant, which

will be subject to receipt of a FAA AIP grant offer; (2) the Contract has been duly executed by both parties; (4) the Executed Contract has been returned to Consultant; and (4) the Contract award, as well as the Contract itself, have been approved by the federal and/or state officials, if applicable.

1.5 **Standard of Care.** The Consultant shall perform the professional services appropriate and required under this Contract in a manner consistent with that degree of care and skill as is ordinarily exercised by members of Consultant's profession under similar circumstances. These services shall be performed as expeditiously as possible, consistent with such standards, and shall be performed in accordance with all applicable professional guidelines and codes. The Consultant shall be responsible for the professional quality, technical accuracy and the coordination of all designs, drawings, specifications and other services furnished pursuant to this Contract. The Consultant shall be liable to the Commission for damages caused by Consultant's failure to provide professional services to the degree required.

1.6 **Attendance at Conferences.** Consultant shall attend all necessary conferences and meetings with the Commission or its representatives during all phases of the services, and the Executive Director shall be notified in advance by Consultant if a conference is called by a party other than said Executive Director.

1.7 **Commission to Provide.** The Commission shall make available to the Consultant all technical data that is in the Commission's possession and requested by Consultant, if any, including maps, surveys, property descriptions, planning documents, test results, condition reports, inspections, drawings, as-built drawings and other available information requested by the Consultant and relating to its work. Commission does not certify to the accuracy of such documents and Consultant shall be solely responsible for any use or reliance by Consultant upon such information in performing its services hereunder.

1.8 **Commission to Pay or Acquire.** The Commission shall pay for publishing costs for advertisements of notices, public hearings, and other similar items.

1.9 **Conformity with Applicable Laws and Regulations.** The Consultant, its officers, agents, employees and any other persons over whom the Consultant has control shall comply with all present and future laws, regulations, rules, ordinances, and codes of federal, state and other local governmental bodies, all Advisory Circulars issued by the FAA, and all directives of the Commission or Executive Director, applicable to the Project, or affecting directly or indirectly the Consultant's operation and activities on or in connection with the Airport. The Consultant shall defend and indemnify Commission, its officials, Board members, officers and employees, and defend and pay all costs, expenses, claims, fines, penalties and damages, including attorney's fees, that may in any manner arise out of, or be imposed because of, the Consultant's failure to comply with this paragraph whether or not assessed by any governmental body against the Commission as either property owner or as Airport operator. The Commission and

Consultant each agree to attempt to give notice promptly to the other of any notice of violation received by either party.

1.11 **Compliance with Laws and Regulations Governing Hazardous Wastes.** While on Commission's property and in its performance of this Contract, the Consultant shall not transport, dispose of, or release any hazardous substance, material or waste, except as necessary in the performance of its Work under this Contract and the Consultant shall comply with all federal, state, and local laws, rules, codes, regulations and ordinances controlling air, water, noise, solid wastes and other pollution, and relating to the storage, transport, release, or disposal of hazardous materials, substances or waste.

1.12 **Notices.** All notices which may be proper or necessary to be served, and payments to be made, hereunder shall be sent by regular mail, postage prepaid, to the following addresses and to such other address as either party may hereafter designate for such purpose in writing.

To Commission:

c/o Executive Director
Roanoke Regional Airport Commission
5202 Aviation Drive
Roanoke, Virginia 24012

To Consultant:

1.13 **Compliance with Federal Employment-related Laws.** For any project that will be funded in part with Federal AIP grant funds, the Consultant agrees that it shall comply with federal laws and regulations applicable to projects receiving federal airport funds. In particular, Consultant understands and agrees to comply with the federal laws and requirements identified in **Exhibit 2** of this Contract.

1.14 **Cooperation with Other Consultants.** In the event Commission shall employ other architects, engineers or consultants, Consultant shall cooperate, coordinate with and assist such engineers, architects, or consultants in a manner that will best further serve and protect the Commission's interests.

ARTICLE 2 – TERM

2.1 **Term.** Unless otherwise terminated pursuant to the terms hereof, the anticipated term of this Contract shall be for a period of 24 months commencing upon the date of execution by Commission. The Contract shall terminate 24 months later unless extended by amendment to the Contract.

ARTICLE 3- BASIC CONSULTANT SERVICES

3.1 **General.** Consultant shall provide professional airport planning/engineering services to prepare the Airport Master Plan per Advisory Circular 150/5070-6B and related FAA documents. Required topics typical of an Airport Master Plan may include, but shall not necessarily be limited to:

- 3.1.1 Review of relevant former master plans, land use plans, drawings, ALPs, AMPs and obstruction surveys, or other reports/plans as appropriate
- 3.1.2 Public Involvement Program
- 3.1.3 Existing Conditions
- 3.1.4 Aviation Forecasts
- 3.1.5 Facility Requirements
- 3.1.6 Analyze flight approaches and departures, and navigational aides for recommendations on maintenance/improvements
- 3.1.7 Alternatives Development and Evaluation
- 3.1.8 Environmental and Sustainability Considerations
- 3.1.9 Airport Layout Plan (ALP) Drawing Set
- 3.1.10 Facilities Implementation Plan.
- 3.1.11 Financial Feasibility Analysis
- 3.1.12 Land Use Compatibility/Coordination with City Comprehensive Plan
- 3.1.13 Assist with grant applications and reporting requirements as needed
- 3.1.14 Provide advice and consultation.
- 3.1.15 Provide other related or requested services.

ARTICLE 4 - SPECIAL SERVICES

4.1 **Litigation Support.** The Consultant shall provide assistance to the Commission, if needed, in prosecuting or defending against any litigation that may arise as a result of construction of any Project. The Consultant shall be compensated for such litigation support services at the hourly rate set forth in "Consultant's Fee Schedule," **Exhibit "3"** hereof, and by this reference incorporated herein.

4.3 **Subcontracted Services.** If needed for the Project, the Consultant may obtain some services required for the Projects by subcontracts, which subcontractors shall be presented to and approved by Commission prior to their use by Consultant on any project. Payment for these services shall be made in accordance with Consultant's Specific Project Proposal contained in an Amendment to this Contract, or as otherwise specifically provided in the "Consultant's Subconsultant Fee Proposal," **Exhibit "4"** hereof, and by this reference incorporated herein.

ARTICLE 5- SCHEDULE OF WORK

5.1 **Timetable for Completion of Services.** The Consultant shall accomplish the work with due diligence and complete work generally in the time frame outlined in its Specific Project Proposal, adjusted to the actual Notice to Proceed date or as specifically modified by agreement of both the parties during the course of the work.

5.2.1 **Time Extensions.** Subject to the time limitations set forth herein, in the event that the work will exceed the time frame set forth above, the Consultant shall notify the Executive Director in writing of the reasons for the deviation from the work schedule, furnish an estimate as to the time required for completion, and request the Executive Director's agreement to an extension of time.

ARTICLE 6- PAYMENT FOR CONSULTING SERVICES

6.1 **Payment Generally.** The Commission agrees to pay the Consultant compensation for rendering the services in accordance with Consultant's schedule of fees, Exhibit "3" hereof. No payment shall be due to Consultant for services rendered until: (i) Consultant has submitted an itemized request for payment identifying the project, the nature of the work performed, the time spent on each component to the nearest half an hour, the job title, employee number or name of the person(s) performing the work, such person's hourly rate (which shall be in accordance with Consultant's Fee Schedule), and any additional information which may be reasonably required by the Commission's Director of Finance and Administration to document and approve the request for payment; and (ii) Commission staff has formally approved the request for payment. Requests for payment shall be submitted monthly.

6.2 **Specific Project Proposal.** The proposed fees shall be based upon not- to-exceed, actual time plus a fixed fee. The agreed upon fee shall be included in the Project Scope Proposal and made part of an Appendix to this Contract. The content of Consultant's

monthly invoice shall depend in part upon the type of fee agreed to and the reasonable information required by the Commission's Director of Finance and Administration prior to payment.

6.3 **Retained Fees.** In the event that Consultant has not provided timely services on past projects for the Commission, the Commission's Executive Director may notify the Consultant that the Commission will retain 5% of each payment to be made to Consultant for each Phase of the Work until all services for that Phase have been satisfactorily completed, as determined by Commission's Director of Planning and Engineering in his/her reasonable discretion. No interest shall be due on such retained fees, nor shall a separate account be established for such fees.

6.4 **Reimbursable Expenses.** For any out of pocket reimbursable services not otherwise provided for in Consultant's Project Proposal or Consultant's Schedule of Fees based on the GSA travel reimbursement guidelines, the Consultant will invoice the Commission at a multiple of no more than 1.10 times the actual expenses incurred or as approved by the FAA.

6.5 **Additional Services.** If a major change or addition to the scope of work is required for any phase of services, and such changes or extensions were not caused by errors or omissions by the Consultant, an amendment to this Contract may be negotiated by the parties, subject to approval by the applicable federal and/or state officials. The hourly rates for any such additional services shall be based on "Consultant's Fee Proposal," **Exhibit "3"** hereof. Any fees for additional services will be due and payable upon satisfactory completion and acceptance as determined solely by the Commission.

6.6 **Timing of Payments.** Payments for basic services shall be made monthly in proportion to the percentage of services performed within each phase of service payable for hours of services actually performed on an hourly, not to exceed, cost plus fixed fee. The Consultant shall submit a monthly invoice by the tenth day of each month. The Commission shall pay the invoice within thirty days of receipt provided the Consultant is not in default of this Contract as defined in this Contract and the work has been satisfactorily performed, as determined by the Commission in its sole and exclusive discretion.

6.7 **Payment Conditions Regarding Subcontractors** The Consultant shall take one of the two following actions within seven days after receipt of amounts, including any retainage, paid to the Consultant by the Commission for work performed by any subcontractor under this Contract:

6.7.1 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 notify the Commission and the subcontractor, in writing, of its intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment. Such delay of payment by Contractor shall take place only for good cause. Commission may require Contractor to provide additional information

regarding the withholding. Commission reserves the right to disapprove such withholding and to delay future payments by Commission to Contractor in the event Contractor fails to comply with the provisions of the subsection.

6.7.2 The Consultant shall pay interest to any subcontractor on all amounts owed by the Consultant that remain unpaid after seven days following receipt by the Consultant of payment from the Commission for work performed and satisfactorily completed by the subcontractor under the Contract, except for amount withheld as allowed under applicable law or pursuant to Section 6.7.1 above.

Unless otherwise provided under the terms of this Contract and by law, interest shall accrue at the rate of one percent per month.

6.7.3 The Consultant shall include in its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

6.7.4 For purposes of this Section, “work performed and satisfactorily completed” shall mean that the portion of the work under the Contract for which the Commission representative has recommended, and federal and state officials, if applicable, have approved the release of payment.

6.7.5 Prior to receiving any payments under this Contract, if the Consultant is an individual, the Consultant shall provide its social security number to the Commission and if the Consultant is a partnership, LLC, corporation, etc. the Consultant shall provide its federal employer identification number to the Commission on the current version of the Internal Revenue Service Form W-9.

ARTICLE 7 - SUBSTITUTION OF PERSONNEL

7.1 Consultant acknowledges and agrees that the services to be provided under this Contract shall be performed by the individuals identified as Consultant’s Key Personnel in Consultant’s Proposal submitted in response to the Commission’s RFP, and by this reference incorporated herein as **Exhibit 5**, and other individuals shall not be substituted to perform services under this Contract without the express prior written consent of Commission's Director of Planning and Engineering.

7.2 In the event the performance of services by Consultant’s employees or subconsultants is or becomes unsatisfactory in the opinion of the Director of Planning and Engineering, then the Director shall have the right to request that such person or persons be replaced. Such request shall be granted within a reasonable time.

ARTICLE 8 - COMPLETENESS OF CONTRACT

This Contract, including without limitation, all attachments and exhibits, the Commission's Requests for Proposals ("RFP"), No. 18-025), and Consultant's Proposal or portion thereof to Commission dated _____, 201__, ("Proposal"), which Proposal and Commission's Request for Proposals (without Section F Proposed Contract) are attached hereto and incorporated by reference herein as **Exhibit 5** and **Exhibit 6** respectively, shall constitute the entire agreement between the Commission and the Consultant, and shall supersede any and all other prior negotiations, representations or agreements, either oral or written; provided, however, that in the event of any express or implied conflict between: (i) Consultant's Proposal and (ii) the Request for Proposals and this Contract, in all cases the terms and conditions of Commission's Request for Proposals and this Contract shall prevail. In the event of any express or implied conflict between: (i) Commission's Request for Proposals and (ii) this Contract, in all cases the terms and conditions of this Contract shall control prevail. This Contract may be amended only by written instrument signed by both parties.

ARTICLE 9 – DISADVANTAGED BUSINESS ENTERPRISE (DBE) COMMITMENT AND ASSURANCES

- A. Policy. It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this agreement.

- B. DBE Obligation. The Consultant agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds provided under this agreement. In this regard all contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts.

C. DBE Requirement

The Commission has establish a DBE goal of 4.4% for this federally funded contract. Consultant agrees to provide the DBE participation established by the Commission, or to prove that it has made a good faith effort to do so. Therefore, payments by Consultant to properly certified DBE's for subcontract work performed hereunder shall equal or exceed the DBE percentage established by the Commission as compared to the total payments made to Consultant. Consultant shall complete such reports as Commission shall require to substantiate the extent of DBE participation.

Commission advises Consultant that failure to carry out the requirements set forth in 49 CFR Section 26 dealing with minority business enterprise shall constitute a breach of contract and after the notification of the Department of Transportation, may result in termination of this agreement or such remedy as Commission deems appropriate.

D. Replacement of DBE Subcontractors

Consultant shall make good faith efforts to replace approved DBE subcontractors that are unable to perform successfully with other certified DBE's to the extent needed to meet the agreed upon contract goal. The Consultant shall notify the DBE Liaison Officer, Mr. David Jeavons, immediately at (540) 362-1999 of the DBE's inability or unwillingness to perform and provide reasonable documentation.

The Consultant shall obtain the Executive Director's prior approval of the substitute DBE or changes to the dollar values of any DBE subcontracts after negotiation of the contract and during contract performance, and shall provide copies of new or amended subcontracts, or documentation of good faith efforts in order to ensure that the substitute firms are eligible DBE's and that the Consultant is complying with the DBE policy and requirements. If the Consultant fails or refuses to comply within the time specified, the Consultant's actions or failure to act shall be treated as a breach of contract, and shall subject the Consultant to all remedies specified in the Contract or available at law or equity for such breach.

End of Contract Terms

IN WITNESS WHEREOF, the parties hereto have affixed their hand and seals.

(Name of Consultant)

By: _____

Title: _____

Date: _____

ATTEST:

Secretary

ROANOKE REGIONAL AIRPORT COMMISSION

By: _____

Executive Director

Date: _____

ATTEST:

Commission Secretary

Appropriation and Funds Required for this
Contract Certified

Director and Finance and Treasurer

Date: _____

Approved as to form:

General Counsel

Account #: _____

EXHIBIT “1”
GENERAL CONDITIONS

GENERAL CONDITIONS 1: DEFINITIONS

- 1.1 **A/C**. Advisory Circular(s) developed by the FAA to regulate the operation and development of civil airports. Some A/C's are defined as mandatory by the Federal Aviation Regulations.
- 1.2 **AIRFIELD**. A secured portion of the airport used, or intended to be used, for the landing, takeoff or surface maneuvering of aircraft, including all the areas within the security fencing, in addition to the runways, taxiways and aprons, and outside of the building limits. The AIRFIELD is sometimes referred to as the AIR OPERATIONS AREA.
- 1.3 **AIRPORT**. Roanoke-Blacksburg Regional Airport, Roanoke, Virginia, including all properties and facilities within the perimeter property lines of the associated site.
- 1.4 **AIRPORT CONSULTANT**. The registered Professional Engineer or Architectural firm responsible for the control and completion of the Project and subject to the general authority of the Director of Planning and Engineering or a designee, sometimes referred to as the Project Consultant or Consultant.
- 1.5 **APPROVAL (BY COMMISSION)**. The formal acceptance of an item, without taking on responsibility for design or intent, which has been certified to be correct by the Consultant.
- 1.6 **APRON**. The paved area of the airfield designated for the parking of aircraft. Also referred to as the aircraft ramp.
- 1.7 **COMMISSION**. Roanoke Regional Airport Commission, Roanoke-Blacksburg Regional Airport, 5202 Aviation Drive, Roanoke, Virginia 24012, also known as the Owner or Sponsor.
- 1.8 **DIRECTOR OF PLANNING AND ENGINEERING**. The Commission employee in charge of the divisions controlling planning efforts, construction activities, Dispatch and Operations.
- 1.9 **DIRECTOR OF FACILITIES AND GROUNDS**. The Commission employee in charge of the divisions responsible for day-to-day operational and maintenance concerns on Commission property.
- 1.10 **EXECUTIVE DIRECTOR**. The Commission's chief executive officer for the Commission, responsible for strategic direction, management and administration of the Airport or an authorized representative.
- 1.11 **FAA**. The Federal Aviation Administration, U.S. Department of Transportation. Where used to designate a person: The Administrator of the FAA, or an authorized representative.

1.12 **FAR**. Federal Aviation Regulation, the mandatory rule(s) adopted by the FAA to govern the safe operation of aircraft and the development of a system of airports throughout the U.S.

1.13 **NOTAM**. Acronym for Notice to Airmen. An official notice to airmen regarding a change in the operational status of the airfield.

1.14 **OWNER/SPONSOR**. The Roanoke Regional Airport Commission or its authorized Executive Director; sometimes referred to as Commission.

1.15 **TSA**. Transportation Security Administration, U.S. Department of Homeland Security

1.16 **TSR**. Transportation Security Regulation, the mandatory rule(s) adopted by the TSA to govern the security of aircraft, passengers, cargo, and airports throughout the U.S.

GENERAL CONDITIONS 2- DOCUMENTS AND RECORDS

2.1 **Ownership of Contract Documents**. One reproducible copy each of the drawings, plans, reports and maps prepared or obtained under the terms of the Contract shall be delivered to and become the property of the Commission; electronic versions in PDF, CADD and GIS format of each shall also be provided. Basic survey notes and sketches, charts, computations and other data shall be made available upon request to the Commission without restriction or limitation on their use.

2.2 **Right to Inspect Contract Documents**. Any authorized representative of the Commission shall, at all reasonable times, have a right to inspect and examine the drawings, plans, reports and other Contract Documents at Consultant's office during the period of their preparation.

2.3 **Right to Inspect Consultant's Records**. The Consultant agrees that the Commission, and any approving federal or state agency, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Consultant which are directly pertinent to any specific grant program or the use of Commission public funds with respect to this Project for the purpose of making audits, examinations, excerpts and transcriptions. All such records shall be maintained by Consultant for at least three years after Commission has made final payment to Consultant and all other pending matters concerning the grant and project are closed.

GENERAL CONDITIONS 3- ASSIGNMENT AND SUBCONTRACTING OF CONTRACT

3.1 **Assignment.** Each party binds itself, its principals, successors, executors, administrators and assigns to perform all covenants of this Agreement. Neither the Commission nor the Consultant shall assign, or transfer its interest in this Agreement without the prior written consent of the other Party hereto.

3.2 **Delegation of Duties.** The Consultant shall not subcontract, nor shall any subcontractor commence performance of any part of the work or services included in this Contract, without the previous written consent of the Executive Director. Subcontracting, if permitted, shall not relieve the Consultant of any of its obligations under this Contract. The Consultant shall be solely responsible to the Commission for the acts or faults of any such subcontractor and of such subcontractor's officers, agents and employees, each of whom shall for this purpose, be deemed to be an agent or employee of the Consultant to the extent of its subcontract. As a prior condition to approval of a subcontractor, the Consultant shall provide a conformed copy of the applicable subcontract to the Executive Director. The Consultant and any subcontractor shall jointly and severally agree that the Commission is not obligated to pay or to be liable for the payment of any sums due any subcontractor.

Upon request by Commission, Consultant shall promptly provide a listing of all subcontractors, contact information, the work performed or to be performed, DBE status, the amount of the subcontract, the amount actually paid and any other information reasonably requested by the Commission from time to time.

GENERAL CONDITIONS 4 - INSURANCE

4.1 **Liability Insurance Requirements.** The Consultant shall maintain general liability insurance, on a per occurrence basis, with a quality company authorized to do business in Virginia during the life of the Contract and furnish Commission Certificates of Insurance, or other appropriate evidence of coverage as may be required by Commission, naming the Consultant as insured and its subcontractors, Commission, and Commission's officers, officials, agents, board members, employees and volunteers as additional insureds, providing coverage against any and all claims for property damages or bodily injury (including death) incurred in connection with the services to be provided under this Agreement. Minimum limits of liability shall be as indicated below:

4.1.1 Commercial General Liability: \$1,000,000 Combined Single Limit to include Contractual, Commissions and Contractors Protective, and Personal Injury (Libel, Slander, Defamation of Character, etc.)

4.1.2 Automobile Liability: \$1,000,000 Combined Single Limits, unless the Consultant will be driving inside the AOA, in which case the requirement shall be for \$5,000,000 combined Single Limit. Such insurance shall be "any auto" type coverage or is equivalent.

4.1.3 The above amounts may be met by an umbrella liability policy following the form of the underlying primary coverage in a minimum amount of Five Million Dollars (\$5,000,000).

4.2 **Errors and Omissions Insurance Requirements.** The Consultant shall take out and maintain during the life of this Contract, professional errors and omissions insurance in an amount of at least One Million Dollars (\$1,000,000.00), or the full amount of the Consultant's standard professional errors and omissions insurance policy, whichever is greater.

4.3 **Workers' Compensation Requirements.** The Consultant will obtain and maintain during the life of the Contract the statutory Workers' Compensation and Employer's Liability Insurance for all of its employees engaged in work on the Project under Contract. The Consultant shall require similar coverage by all subcontractors.

4.4 **Insurance on Drawings.** Consultant shall carry full insurance coverage on drawings, specifications, and other valuable information against loss by fire, damage, destruction and theft, until the improvement contemplated has been constructed and the corrected original drawings required by the Commission have been furnished to the Commission. The cost of such full coverage, as well as the cost of all other insurance required herein, shall be included in the basic fee hereinafter set forth.

4.5 **Notice of Cancellation.** The policy or policies required hereunder shall contain substantially the following special provision, unless otherwise agreed by Commission: "The Company agrees that thirty (30) days prior to cancellation or reduction of the insurance afforded by this policy, with respect to the contract involved, written notice will be sent by certified mail to the Executive Director, Roanoke Regional Airport Commission."

4.6 **Additional Insureds.** Prior to execution of this Contract by Commission, the Consultant shall provide the Executive Director with evidence of the additional insured endorsement naming the entities listed in General Conditions Section 5.1 above as additional insureds, and, if specifically requested, a copy of the declaration sheet for every insurance policy required hereunder. Such documents shall as to form, coverage, carrier and limits be satisfactory and approved by the Commission's Executive Director. If at any time the coverage, carrier or limits on any policy shall become unsatisfactory to such Executive Director, or the Commission's General Counsel, the Consultant shall forthwith provide a new policy meeting the requirements of said persons. The additional insured coverage provided under the Consultant's insurance policy shall be primary with respect

to the Consultant's general liability, notwithstanding other insurance covering the Commission.

4.7 **Insurance not to be a Limit on Liability.** Consultant covenants and agrees that the insurance coverages required under this agreement shall in no way be considered or used in any manner as a limit or cap of any kind on any liability or obligation that Consultant may otherwise have, including without limitation liability under the indemnification provisions contained herein.

4.8 **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.

GENERAL CONDITIONS 5 - INDEMNIFICATION

5.1 **Indemnification.** The Consultant shall defend, indemnify and hold harmless the Commission and its present and future Commissioners, officers, agents and employees, from and against all liabilities, claims, losses, costs and expenses, including but not limited to, reasonable attorney's fees, arising out of any and all negligent acts, errors, and omissions of Consultant and/or its agents, employees and/or sub-consultants in the performance of work pursuant to the Contract.

5.2 Consultant shall have no obligation to indemnify any person entitled to indemnification hereunder to the extent that the above-described losses are finally determined by a court of competent jurisdiction to have been caused solely by the negligence of such person indemnified hereunder.

GENERAL CONDITIONS 6- DEFAULT AND TERMINATION

6.1 **Events of Default.** The Consultant shall be in default of this Contract if any of the following occurs:

6.1.1 The Consultant abandons or discontinues its services or operations for the Commission except when such abandonment or discontinuance is caused by fire, earthquake, war, strike or other calamity beyond its control;

6.1.2 The Consultant fails to prepare adequate drawings, plans, reports, other contract documents or data, or fails to provide proper administration of the construction contract, or refuses or fails to follow instructions of the Executive Director, provides services which do not meet the level and quality of services generally provided in the industry or otherwise fails to perform satisfactorily any of the terms, conditions and provisions of this Contract and such failure continues for a period of five (5) calendar days after written notice thereof is given it by the Executive Director.

6.2 **Commission's Rights in the Event of Default.** Upon the occurrence of any one or more of the events set forth in General Conditions Section 7.1, the Commission may, at its option, exercise concurrently or successively any one or more of the following rights and remedies:

6.2.1 Withhold payments that would otherwise be due pursuant to Article 6 of the Contract until the default has been cured.

6.2.2 Enjoin any breach or threatened breach by Consultant of any covenants, agreements, terms, provisions or conditions hereof.

6.2.3 Sue for the performance of any obligation, promise or agreement devolving upon Consultant for performance, or for damages for the nonperformance thereof, all without terminating this Contract.

6.2.4 Terminate this Contract upon written notice of an intention to do so and have the services then uncompleted performed by another consultant. In such case, the Consultant shall be liable to the Commission for any damages allowed by law, and upon demand Consultant shall promptly pay same to Commission.

6.2.5 Receive from the Consultant all data, drawings, specifications, reports, estimates, summaries and any other information and materials as may have accumulated by the Consultant in performing this Contract whether completed or in process.

6.3 **All Remedies Cumulative.** All rights and remedies granted to the Commission herein, and other rights and remedies which the Commission may have at law and in equity, are hereby declared to be cumulative and not exclusive and the fact the Commission may have exercised any remedy without terminating this Contract shall not impair the Commission's rights thereafter to terminate or to exercise any other remedy herein granted or to which it may be otherwise entitled. In the event Commission places all or part of the terms, conditions, or requirements of this Contract into the hands of an attorney for enforcement, including the filing of a suit upon the same, Consultant agrees to pay all of Commission's reasonable attorney's fees and costs related to any such proceeding.

6.4 **Termination of Contract.** The Commission, upon seven (7) days written notice, may terminate this Contract without cause, in whole or in part, by providing written notice to Consultant. Upon receipt of any such notice, the Consultant shall:

6.4.1 Immediately discontinue all services affected (unless the notice directs otherwise); and,

6.4.2 Deliver to the Commission all data, drawings, specifications, reports, estimates, working papers, summaries and such other information and materials as may have been prepared as part of the work or accumulated by the Consultant in performing this agreement whether completed or in process.

6.5 **Consultant's Right to Fee Upon Termination.** Should the Contract be terminated for reasons other than default, the Consultant shall be entitled to and shall receive a fee for completed services, as certified by Consultant and verified by Commission, equal to a percentage of the fixed payment, or equal to the hours invested in the work, as described in Article 6 of this Contract. The percentage shall represent the amount of work completed to date compared to the estimated amount of work to complete the phase of the work in question. Reimbursable expenses shall also be paid.

GENERAL CONDITIONS 7 – CLAIMS BY CONSULTANT

Consultant'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 for increases in time, shall be submitted to the Commission's Executive Director in writing with a request for a formal decision. Consultant shall deliver written notice with supporting data for each such claim, dispute, or other matter promptly, but in no event later than ten (10) calendar days after the start of the occurrence or event giving rise thereto. Consultant'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 Consultant 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. In reviewing any such claim or dispute, the Executive Director may request any additional information or documentation from the Consultant 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 Consultant within ninety (90) calendar days from the later of: (i) receipt of the written claim; or (ii) receipt of any additional information requested from the Consultant. Failure of the Executive Director to render a decision within such ninety (90) day period shall be deemed a final decision denying the claim by the Roanoke Regional Airport Commission and shall not result in the Consultant being awarded the relief claimed or any other relief or penalty.

GENERAL CONDITIONS 8 - NON-DISCRIMINATION

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

8.1.1 The Consultant will not discriminate against any subcontractor, 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 Consultant. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- 8.1.2 The Consultant, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, will state that such Consultant is an equal employment opportunity employer.
- 8.1.3 Notices, advertisements and solicitations placed in accordance with federal law, rules or regulations, shall be deemed sufficient for the purpose of meeting the requirements of this section.
- 8.1.4 The Consultant will include the provisions of the foregoing paragraphs 8.1.1, 8.1.2, and 8.1.3 in every subcontract or purchase order of over \$10,000.00 so that the provisions will be binding upon each subcontractor or vendor.
- 8.1.5 The Roanoke Regional Airport Commission does not discriminate against faith based organizations.

GENERAL CONDITIONS 9 - DRUG FREE WORKPLACE

During the performance of this contract, the Consultant agrees to (i) provide a drug-free workplace for the Consultant'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 Consultant'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 Consultant that the Consultant maintains a drug-free workplace; and, (iv) include the provision of the foregoing clauses in every subcontract or purchase order of over \$10,000.00 so that the provision will be binding upon each such subcontractor or vendor. For purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with the Roanoke Regional Airport Commission's Procurement Regulations and applicable Virginia procurement laws, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

GENERAL CONDITIONS 10 - IMMIGRATION REFORM AND CONTROL ACT OF 1986

Consultant certifies that it does not and will not during the performance of this Contract employ unauthorized alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986.

GENERAL CONDITIONS 11 – 41 CFR 60-300.5(a) and 41 CFR 60-741(a)

This Contractor (consultant) and subcontractor (subconsultant) 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.

GENERAL CONDITIONS 12 - GOVERNING LAW AND VENUE

The provisions of this Contract shall be governed by and are intended to be consistent with the laws of the Commonwealth of Virginia. In light of this express choice of law provision, Virginia law for determining governing law shall not apply to the provisions of this Contract. 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 and not elsewhere.

**GENERAL CONDITIONS 13 - 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 Consultant 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 Consultant shall provide documentation acceptable to Commission establishing that the Consultant is 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. The Consultant shall not allow its existence or its certificate of 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 Consultant fails to remain in compliance with the provisions of this section.

GENERAL CONDITIONS 14 – INTERPRETATION AND SEVERABILITY

Wherever possible, each provision of this Contract shall be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Contract is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and shall be inoperative, and all remaining provisions of this Contract shall remain operative and binding on the parties. This Contract shall be construed and interpreted without regard to

the identity of the party which drafted its various provisions. Every provision of this Contract shall be construed as if all parties participated equally in the drafting of that provision. Any legal principle or rule of construction that a document is to be construed or interpreted against the drafting party shall not be applicable in any legal or other proceeding involving the provisions of this Contract, and such principle or rule is expressly waived by the parties to this Contract.

GENERAL CONDITIONS 15 - CONFORMITY WITH APPLICABLE LAWS AND REGULATIONS

This Contract is subject to all applicable federal, state, and/or local laws, rules, regulations and/or determinations, and the Consultant covenants and agrees to execute at any time any and all amendment(s) to this Contract that the Commission deems necessary and/or appropriate to comply with such federal, state, and/or local laws, rules, regulations, and/or determinations.

GENERAL CONDITIONS 16 - CONTRACT PROVISIONS REQUIRED FOR RECIPIENTS OF VIRGINIA DEPARTMENT OF AVIATION FUNDS

- 16.1 As a recipient of Virginia Department of Aviation grant funds, all Commission contracts and agreements are subject to all applicable terms and conditions of the Commission's Master Agreement, Allocations, and Grant Agreements with the Virginia Department of Aviation, all as amended, which are incorporated by reference as if expressly stated herein, including, without limitation, the following provisions:
- 16.2 The Contract is subject to appropriation of funds and applicable grant funding from the Virginia Department of Aviation and may be cancelled and immediately terminated in the event the Virginia Department of Aviation terminates the funding in whole or in part for the Contract under the provisions of an applicable Master Grant Agreement, Allocation, or Grant Amendment.
- 16.3 The Contractor or Consultant and all subcontractors, sub-consultants, and any other recipients of pass through funds shall maintain all books, documents, papers, accounting records, and any other written or electronic evidence supporting their project activities and the costs incurred. Such information shall be made available for audit and inspection at the Commission's offices at all times during the Grant Agreement, Grant Amendment(s), or Allocation period and for a period of four years from the end of the state fiscal year (i.e. June 30) in which the final payment is made, except for records pertaining to terminal buildings and the acquisition of land and easements. Records for terminal buildings shall be kept for the useful life of the terminal building. Records for the acquisition of land and easements shall be kept indefinitely.

16.4 The Contractor or Consultant and all subcontractors, sub-consultants, and any other recipients of pass-through funds shall permit any authorized representatives of the Virginia Department of Aviation to inspect and audit all records related to the performance of the contract or agreement, the Master Agreement, or any Grant Agreements, Grant Amendment(s), and Allocations. This shall include, but not limited to the following: the scope of any audit conducted must include those expenditures made by the Commission for the Grant Agreement, Grant Amendment(s), or Allocation, including consultants, sub-consultants, and any other recipients of pass-through funds.

END OF GENERAL CONDITIONS

**EXHIBIT 2 – CONTRACT PROVISIONS REQUIRED BY
FEDERAL LAW FOR RECIPIENTS OF FEDERAL AIP GRANT
FUNDS**

1. ACCESS TO RECORDS AND REPORTS

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

2. BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the *Consultant* or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide *Consultant* written notice that describes the nature of the breach and corrective actions the *Consultant* must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the *Consultant* must correct the breach. Owner may proceed with termination of the contract if the *Consultant* fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

3. GENERAL CIVIL RIGHTS PROVISIONS

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

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

4. CIVIL RIGHTS - TITLE VI ASSURANCES

4.1 The **Roanoke Regional Airport Commission**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

4.2 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 Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or 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.

4.3 Title VI List of Pertinent Nondiscrimination Acts and Authorities

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

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 *et seq.*).

5. CLEAN AIR AND WATER POLLUTION CONTROL

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceeds \$150,000.

6. DEBARMENT AND SUSPENSION

6.1 CERTIFICATION OF OFFEROR/BIDDER REGARDING DEBARMENT

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

6.2 Certification of Lower Tier Contractors Regarding Debarment

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>
2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

7. Disadvantaged Business Enterprise (DBE)

7.1 Information Submitted as a matter of bidder responsiveness:

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR §26.53.

As a condition of bid responsiveness, the Bidder or Offeror must submit the following information with its proposal on the forms provided herein:

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1)
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal; and
- 5) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26.

7.2 Information submitted as a matter of bidder responsibility:

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR §26.53.

The successful Bidder or Offeror must provide written confirmation of participation from each of the DBE firms the Bidder or Offeror lists in its commitment within five days after bid opening.

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1)

- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal; and
- 5) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26.

7.3 Solicitation Language (Race/Gender Neutral Means)

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the **Roanoke Regional Airport Commission** to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

7.4 Prime Contracts

Contract Assurance (§ 26.13) –

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment (§26.29) – The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than seven days from the receipt of each payment the prime contractor receives from [Name of recipient]. The prime contractor agrees further to return retainage payments to each subcontractor within seven days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the [Name of Recipient]. This clause applies to both DBE and non-DBE subcontractors.

8. **DISTRACTED DRIVING**

Texting When Driving

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

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

9. **ENERGY CONSERVATION REQUIREMENTS**

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

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

11. **CERTIFICATION REGARDING LOBBYING**

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

12. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

13. CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

- 1) The applicant represents that it is (✓) is not (✓) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The applicant represents that it is (✓) is not (✓) is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions

Felony conviction: Felony conviction means a conviction within the preceding twenty-four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

14. TERMINATION OF CONTRACT

14.1 TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES)

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

14.2 TERMINATION FOR DEFAULT (PROFESSIONAL SERVICES)

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party seven [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

- a) **Termination by Owner:** The Owner may terminate this Agreement in whole or in part, for the failure of the Consultant to:
1. Perform the services within the time specified in this contract or by Owner approved extension;
 2. Make adequate progress so as to endanger satisfactory performance of the Project; or
 3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

- b) **Termination by Consultant:** The Consultant may terminate this Agreement in whole or in part, if the Owner:

1. Defaults on its obligations under this Agreement;
2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
3. Suspends the Project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

15. TRADE RESTRICTION CERTIFICATION

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

- 1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- 2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- 3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- 3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

16. VETERAN'S PREFERENCE

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

EXHIBIT 3 – CONSULTANT’S FEE SCHEDULE

**EXHIBIT 4 – CONSULTANT’S SUBCONSULTANT FEE
SCHEDULES**

**EXHIBIT 5 – CONSULTANT’S PROPOSAL SUBMITTED IN
RESPONSE TO RFP # 18-025**

EXHIBIT 6 – COMMISSION’S RFP WITHOUT SECTION F
“PROPOSED CONTRACT”