

GC-7 SUBCONSULTANT AND OTHER PAYMENT CONDITIONS; CLAIMS

- A. The Consultant shall take one of the two following actions within seven days after receipt of amounts paid to the Consultant by the Commission for work performed by any sub Consultant under this contract:
- a. Pay the sub Consultant for the proportionate share of the total payment received from the Commission attributable to work performed by the sub Consultant under the contract; or
 - b. Notify the Commission and the sub Consultant, in writing, of his intention to withhold all or a part of the sub Consultant's payment with the reason for nonpayment.
- B. The Consultant shall pay interest to any sub Consultant 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 by the sub Consultant under the contract, except for amounts withheld as allowed under paragraph "5b" above.

Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent per month.

- C. The Consultant shall include in its subcontracts a provision requiring each sub Consultant to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier sub Consultant.
- D. Contractual claims, disputes and other matters relating to the acceptability of the work, the interpretation or the requirements of the Agreement, or the performance or furnishing of the work, including without limitation, Engineer's or Commission's denial of Consultant's request for a change order for additional money and/or an increase in time, shall be submitted in writing together with all supporting documentation/data and a request for a formal decision to the Owner's Executive Director. Consultant shall deliver the 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 of the event giving rise to the claim. Consultant's failure to submit written notice of such claim, dispute or other matter with the supporting data to Owner'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 Owner for damages or relief of any kind based upon such occurrence or event.. In reviewing any such claim or dispute, Executive Director may request any additional information or documentation from 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 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 ninety (90) calendar days shall be deemed a final decision by the Roanoke Regional Airport Commission denying the claim, and shall not result in the Consultant being awarded the relief claimed or in any other relief or penalty.

GC-8 INDEMNIFICATION

Consultant shall defend, indemnify and hold harmless the Commission, its officials, officers, board members, agents, and employees, against any and all loss, cost, or expense, including reasonable attorney's fees, resulting from any claim, whether or not reduced to judgment, and for any liability of any nature whatsoever, that may arise out of or result from the Work or its performance by Consultant or its sub Consultant(s) or the violation of any of the terms and conditions of this Contract, including, without limitation, fines and penalties, violations of federal, state or local laws or regulations promulgated hereunder, personal injury, wrongful death or property damage claims, or damage to or vandalism of the Consultant's equipment or personal property used to perform the Work. Should Consultant inadequately remedy or fail to remedy a violation of this agreement after notification by Commission, Commission shall be authorized to take whatever corrective action Commission deems necessary to eliminate the violation, at the sole expense of Consultant. Consultant shall not be responsible for liability arising out of the negligence of Commission.

GC-9 INSURANCE REQUIREMENTS

A. Liability Insurance Requirements. The Auditor shall maintain general liability insurance with a quality company authorized to do business in Virginia during the life of the Contract and furnish Commission Certificates of Insurance naming the Auditor, Commission, and all of its respective 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 contract.

Minimum limits of liability shall be as indicated below:

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

The above amounts may be met by an umbrella liability policy following the form of the underlying primary coverage.

2. **Automobile Liability:** \$1,000,000 Combined Single Limits, unless the Auditor will be driving inside the AOA, in which case the requirement shall be for \$5,000,000 combined single limit.
 3. **Errors and Omissions Insurance:** The Auditor shall take out and maintain during the life of this Contract, professional errors and omissions insurance in any amount of at least One Million Dollars (\$1,000,000), or the full amount of the Auditors standard professional errors and omissions insurance policy, whichever is greater.
 4. **Workers' Compensation Requirements:** The Auditor 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 audit under Contract.
- B. Notice of Cancellation:** The policy or policies required hereunder shall contain the following special provision: "The Auditor 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."
- C. Additional Insureds:** Prior to execution of this Contract by the Commission, the Auditor shall provide the Executive Director with an exact copy of the additional insured endorsement naming the entities listed in Article 14-B above as additional insureds, and a copy of the declaration sheets 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 Auditor shall forthwith provide a new policy meeting the requirements of said persons. The additional insured coverage provided under the Auditor's insurance policy shall be primary with respect to the Auditor's general liability, notwithstanding other insurance covering the Commission.
- D. Insurance Not To Be Limit On Liability:** Auditor covenants and agrees that the insurance coverage 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 Auditor may otherwise have, including without limitation liability under the indemnification provisions contained herein.

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

GC-10 ASSIGNMENT AND/OR SUBCONTRACTING PROHIBITED

Consultant shall not assign any interest in this Contract or subcontract any of the Services hereunder without prior written consent of Commission which Commission shall be under no obligation to grant.

GC-11 CANCELLATION

A. For Cause

The Commission's Executive Director may cancel the Contract upon written notice received by Consultant whenever Consultant's services fall below the quality of services generally provided by others for similar types of services, or Consultant has failed to perform in accordance with this Contract. Prior to any such cancellation, Consultant shall be given written notice and five (5) days to cure such failures. However, in the event that that Consultant's failure is a violation of law, and/or an act or condition that poses a risk of harm to people or their property, then Consultant shall immediately take action to cure such failure and shall complete such cure within 24 hours. Default by Consultant hereunder shall constitute a basis for determining for future contracts that Consultant is not a responsible bidder and for Commission to refuse to award such future Contracts to Consultant.

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

B. Without Cause

The Executive Director of the Commission may cancel the Contract without cause at any time immediately upon written notice, and may stop the Work at any time, provided that Consultant shall be paid for all Work completed to the

satisfaction of the Commission on or before the effective date of the cancellation or stop work order, whichever is sooner.

GC-12 OTHER REQUIREMENTS

NON-DISCRIMINATION

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

- (a) The Consultant will not discriminate against any employee or applicant for employment because of race, 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.

- (b) 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 opportunity employer.
- (c) Notices, advertisements and solicitations places in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

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

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

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 provisions of the foregoing clauses in every subcontract or purchase order of

over \$10,000.00 so that the provisions will be binding upon each such sub Consultant or vendor.

EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

The Consultant covenants that it does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

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 Contactor fails to remain in compliance with the provisions of this section.

The following EEO clause shall be made a part of the Contract per 41 CFR 60-300.5(a) and 41 CFR 60-741(a):

“The Consultant and sub Consultant 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 Consultants and sub Consultants to employ and advance in employment qualified individuals with disabilities and protected veterans.”

GC-13 GOVERNING LAW AND VENUE

The provision 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, Roanoke, Virginia, and not elsewhere.

GC-14 SEVERABILITY AND INTERPRETATION

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. In the event of any conflict or discrepancy between (i) any of these General Conditions and (ii) any term or provision of any proposal and/or exhibit or other document submitted by the Consultant and made a part of the Contract, all cases, the terms and conditions of these General Conditions shall control and prevail.

GC-15 SURVIVAL

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

GC-16 DUPLICATE COPIES

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

GC-17 HEADINGS

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

GC-18 NOTICES

A. Forms of Notice. Unless otherwise specified, all notices, consents and approvals required or authorized by this Contract to be given by or on behalf of either party to the other, shall be in writing and signed by a duly designated representative of the party by or on whose behalf they are given, and shall be

deemed given three days after the time a certified letter, properly addressed, postage prepaid is deposited in any United States Post Office, or upon delivery by hand, or upon delivery by overnight express carrier.

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

C. Notice to Consultant. Notice to Consultant may be addressed and delivered to Consultant at the address provided by Consultant in the Contract, Consultant's address as shown in the public records, or at such other address in the continental United States as Consultant may hereafter designate by notice to the Commission in writing.

GC-19 CERTIFICATION

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

GC-20 CONTRACT PROVISIONS REQUIRED FOR RECIPIENTS OF VIRGINIA DEPARTMENT OF AVIATION FUNDS

- A. 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:
1. 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 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.
 2. 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.

3. 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.