

PROPOSED CONTRACT NO. \_\_\_\_\_  
FOR FENCE MAINTENANCE AND INSTALLATION SERVICES

This Contract for as-needed/on-call fencing maintenance and installation services dated for identification \_\_\_\_\_, 2020, by and between \_\_\_\_\_, a Virginia \_\_\_\_\_ organized and existing under the laws of the Commonwealth of Virginia with its offices at \_\_\_\_\_ (“Contractor”) and the Roanoke Regional Airport Commission, a body politic of the Commonwealth of Virginia, created through Chapter 140 of the 1986 Acts of the Virginia General Assembly, with its offices at 5202 Aviation Drive, N.W., Roanoke, Virginia 24012 (the “Commission”).

W I T N E S S E T H:

WHEREAS, the Commission issued Invitation for Bids No. 20-018 on **October 14, 2020** seeking bids for fair and reasonable prices for fencing work from fencing maintenance and installation services providers; and

WHEREAS, Contractor’s proposal was received and approved by the Commission at a Board meeting held on \_\_\_\_\_ (date); and

WHEREAS, the Commission has determined to retain Contractor as one of its as-needed/on-call fencing maintenance and installation services provider and Contractor has agreed to provide such services; and

WHEREAS, this Contract shall be effective for one (1) year from the date of the award, and Commission shall have the option to renew the Agreement for two (2) additional one (1) year terms; and,

WHEREAS, Contractor proposes to provide as-needed/on-call fencing maintenance and installation services to the Commission including, but not necessarily limited to, as described within the Scope of Work contained in the Invitation for Bids; and,

NOW THEREFORE, the parties in consideration of the mutual benefits accruing to each other do hereby covenant and agree as follows:

1. Commission Retains Contractor. The Commission hereby retains Contractor to provide as-needed/on-call fencing maintenance and installation services as requested by the Commission from time to time. Incorporated herein and made an integral part hereof are the Commission’s General Terms and Conditions attached as Attachment “A.” Any conflict in the terms of this Agreement and the General Terms and Conditions will be resolved in favor of the General Terms and Conditions.
2. Contractor Consents. Contractor agrees to serve as one of the Commission’s as-needed/on-call fencing maintenance and installation services provider.

3. Contract Documents. The global “Agreement” shall consist of the following Contract Documents: this executed Contract; General Conditions (Attachment “A”); Commission’s Invitation for Bid No. 20-018 (Attachment “B”); and Contractor’s Bid Documents (Attachment “C”), all of which are attached hereto and incorporated herein by reference. In the event of any inconsistency between this Agreement and any of the other Contract documents, the inconsistency shall be resolved by giving precedence to the Contract Documents in the following order: this Agreement, then Attachment “A”, and then Attachment “B”, and then Attachment “C”.

4. How service is provided. Services shall generally be provided in accordance with Commission’s Invitation for Bid No. 20-018 (Attachment “B”). All services provided by Contractor will be negotiated on an as needed basis based upon the estimate provided by Contractor. If a Contractor’s estimate for services is accepted by Commission, the estimate for services will constitute a separate Job Order for each transaction.

5. Fees; Billing. Fees will be determined in accordance with Contractor’s Bid Documents (Attachment “C”) with an estimate provided and Job Order agreed upon prior to initiating any work under this contract. Bills will be rendered monthly and emailed to: Jay Ball, Director of Facilities and Grounds at: [Jay.Ball@flyroa.com](mailto:Jay.Ball@flyroa.com) Contractor’s fencing maintenance and installation services and billing under this Agreement are authorized to commence \_\_\_\_\_, 2020.

6. Extent and scope of work. Contractor will be responsible for assisting the Commission with as needed/on-call fence maintenance and installation services including the provision of all supervision, labor, tools, materials, supplies, parts, equipment, transportation, record documentation, and other associated work and responsibilities necessary to replace, furnish and install, and/or repair chain-link, and TREX fencing for the Commission on an “as needed” basis, in accordance with the provisions and specifications contained within the Scope of Work contained in Commission’s Invitation for Bid No. 20-018 (Attachment “B”).

Job Orders issued during the term of this Agreement may also specify deliverables not included in this Agreement.

7. Insurance.

A. Liability Coverage

Prior to execution of this Agreement by Commission, Contractor shall provide Commission’s Executive Director suitable evidence of commercial general liability occurrence-type insurance that includes contractual liability and products and completed operations insurance, and automobile liability with “any auto” coverage, naming Contractor as an insured and its employees, subcontractors, the Commission and its officials, officers, board members, agents, employees, and volunteers as additional insureds, providing coverage against any and all claims and demands made by any person or any other entity whomsoever for injuries or death or property damage

incurred in connection with or arising out of the services, items and/or other matters to be performed hereunder and including contractual liability coverage for the terms and conditions of this Agreement, which policies shall provide limits of not less than \$1,000,000.00 provided that, under no circumstances shall Contractor or its employees bring or drive a motor vehicle inside the security fence.

Commercial General Liability: \$1,000,000.00 Combined Single Limit to include Contractual, Owners and Contractors Protective, and Personal Injury (Libel, Slander, Defamation of Character, etc.)

Automobile Liability: \$1,000,000.00 Combined Single Limits, such insurance shall be “any auto” type coverage or is equivalent.

Professional Liability: Contractor shall procure and maintain Errors and Omissions Liability Insurance; such coverage shall have minimum limits of no less than \$1,000,000.00 per claim.

#### B. Other Requirements

Other requirements concerning insurance are included in the **General Terms and Conditions** (Attachment “A”).

8. Responsiveness. For new fencing projects, the Commission representative shall notify Contractor of Commission’s needs by telephone. Contractor will then schedule a site inspection within three (3) business days. Contractor shall respond to the Commission’s Director of Facilities and Grounds or his designee by preparing a drawing with pertinent facts including an estimate of the cost of the new fencing. This response, including an estimate, should be provided within ten (10) business days of the site inspection.

For fencing repair and maintenance tasks, the Contractor shall respond to Commission’s request for fence repair within the same day of the request. Contractor should then immediately schedule a site inspection, and then prepare an estimate and forward it by email to [Jay.Ball@flyroa.com](mailto:Jay.Ball@flyroa.com) within three (3) business days.

Other requirements regarding responsiveness and procedures will be provided in accordance with the “General Procedures” section of the Commission’s Invitation for Bid No. 20-018 (Attachment “B”)

9. Waiver. The failure by the Commission to insist upon strict performance of any of the terms or provisions of this Agreement or to exercise any option, right or remedy contained in this Agreement shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, right or remedy. No waiver by either party of any term or provision of this Agreement shall be deemed to have been made unless expressed in writing and signed by such party.

10. Severability. If any clause or provision of this Agreement is or becomes illegal, invalid or unenforceable because of present or future laws or any rule or regulation of any governmental body or entity, then the remaining parts of this Agreement shall not be affected.

11. Applicable Law. This Agreement shall be construed under and shall be governed by the laws of the Commonwealth of Virginia.

12. Headings. Headings of Articles and Sections are inserted only for convenience and are not, and shall not be deemed, a limitation on the scope of the particular Articles or Sections to which they refer.

13. Notices. All notices or other communications required or desired to be given with respect to this Agreement shall be in writing and shall be delivered by hand or by courier service or sent by registered or certified mail, return receipt requested, bearing adequate postage and properly addressed as provided below. Each notice given by mail shall be deemed to have been given and received when actually received by the party intended to receive such notice or when such party refuses to accept delivery of such notice. Upon a change of address by either party, such party shall give written notice of such change to the other party in accordance with the foregoing. Inability to deliver because of changed address or status of which no notice was given shall be deemed to be receipt of the notice sent effective as of the date such notice would otherwise have been received.

To the Commission:

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

To Contractor:

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14. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Commission and Contractor and their respective successors and assigns.

15. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, supersedes all prior understandings and writings. This Agreement may be amended or modified only by a writing signed by the Commission and Contractor.

16. Force Majeure. Neither party shall be liable for any failure to perform its non-monetary obligations under this Agreement due to any cause beyond its reasonable control such as wars, riots, civil commotion, strikes, labor disputes, embargoes, pandemic, natural disasters, and Acts of God or any other cause or contingency similarly beyond its control.

17. Including. In this Agreement, whenever general words or terms are followed by the word “including” (or other forms of the word “include”) and words of particular and specific meaning, the word “including” (or other forms of the word “include”) shall be deemed to mean “including without limitation,” and the general words shall be construed in their widest extent and shall not be limited to persons or things of the same general kind or class as those specifically mentioned in the words of particular and specific meanings.

18. Non-Discrimination.

(1) During the performance of this Agreement, Contractor agrees as follows:

i. Contractor will not discriminate against or in favor of 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 Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

ii. Contractor, in all solicitations or advertisements for employees placed by or on behalf of Contractor, will state that Contractor is an equal employment opportunity employer.

iii. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

(2) Contractor will include the provisions of the foregoing paragraphs i, ii, and iii, in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

19. Termination. Either party may terminate this Agreement at will upon sixty (60) days’ written notice to the non-terminating party.

20. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single document.

Witness the following signatures and seals.

Contractor: \_\_\_\_\_

By: \_\_\_\_\_

ROANOKE REGIONAL AIRPORT COMMISSION

By: \_\_\_\_\_  
Tim Bradshaw, A.A.E., Executive Director

Approved as to Form

\_\_\_\_\_  
General Counsel  
Roanoke Regional Airport Commission

Certification of Funds

\_\_\_\_\_  
David Jeavons  
Commission Treasurer

\_\_\_\_\_  
Account Number

**ATTACHMENT A  
ROANOKE REGIONAL AIRPORT COMMISSION  
GENERAL TERMS AND CONDITIONS  
NON-AIP**

**GC-1 COMPLIANCE WITH LAWS AND LICENSING REQUIREMENTS**

- A. Contractor covenants and warrants that it has all licenses and permits necessary to perform the work and that it shall maintain all such licenses and permits as may be required by Federal, State and local agencies during the term of the Agreement.
- B. Contractor expressly warrants that in performance of the Work it shall comply with all applicable laws, codes, regulations, standards, etc., which may be required of it by all applicable local, state and federal jurisdictions and their respective agencies, offices, bureaus, and other administrative/regulatory entities.

**GC-2 SUBCONTRACTING AND ASSIGNMENT**

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

**GC-3 PERFORMANCE REQUIREMENTS**

A. General

- (1.) The Work shall be performed in a good, workmanlike and safe manner, consistent with accepted industry practices and techniques, and subject to all applicable laws and regulations.
- (2.) Contractor shall protect the property of the Commission, airport tenants and private property owners from any and all damage caused by Contractor's operations.
- (3.) Contractor agrees to furnish its best skill and judgment in furtherance of the interest of the Commission. Contractor agrees to furnish at all times an adequate supply of trained and qualified employees to perform the Work in the best way and in the most expeditious, economic and safe manner consistent with the interest of the Commission.
- (4.) All services shall be performed with due diligence and with minimal interference to the Commission and private property owner(s) in the use of the/their property.

B. Character of Workers, Methods, and Equipment

Contractor shall, at all times, employ sufficient labor and equipment for executing the Work to full completion in the manner and time required by the Contract Documents.

All employees shall have sufficient skill and experience to perform properly the work assigned to them. Neither Contractor nor its employees, agents, invitees or subcontractors shall bring any firearms or other weapons onto the work sites; nor shall any person come onto or remain upon the work sites while under the influence of alcohol or illegal drugs.

Any person employed by Contractor, who, in the opinion of the Commission, does not perform his work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the Commission, be removed forthwith by Contractor, and shall not be employed again in any portion of the Work without the consent of the Commission.

Should Contractor fail to remove such person or persons or fail to furnish suitable and sufficient personnel for the proper execution of the Work, the Commission may suspend the Work by written notice until compliance with such orders.

C. Inspection

A representative of the Commission and/or Consultant shall have the right at all times to examine the methods used by Contractor; to observe the operations of Contractor and its employees; to verify the activities being performed; and to do any act or thing which the Commission may be obligated or have the right to do under this agreement.

D. Damage and Repair.

Contractor shall be responsible for and shall repair, or make financial and other arrangements for the repair, of any and all damages to the property of the Commission or others which may arise from its actions and the Work under this Agreement.

**GC-4. PAYMENTS**

- A. Payment will be made in accordance with Contractor's proposal for the Work, plus the cost of any additional services agreed to in advance, in writing by Commission, within thirty (30) days after the satisfactory completion of the Work, as determined by Commission, and Contractor's presentation of a proper invoice.

A detailed invoice, including the dates, on which the services were performed,



shall be sent to the:

Roanoke Regional Airport Commission  
Department of Finance  
5202 Aviation Drive  
Roanoke, VA 24012

- B. Prior to receiving any payments under this Agreement, Contractor shall provide its federal employer identification number to the Commission.

**GC-5 SUBCONTRACTOR AND OTHER PAYMENT CONDITIONS; CLAIMS**

- 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, Contractor's request 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 Commission's Executive Director. Contractor 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. Contractor's failure to submit written notice of such claim, dispute or other matter with the supporting data to Commission's Executive Director within the time specified shall be deemed to be and shall constitute a waiver by Contractor 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, Executive Director may request any additional information or documentation from Contractor or other parties and may utilize appropriate assistance from other sources. Any final decision in writing by the Executive Director shall be issued to Contractor within ninety (90) calendar days from the later of: i.) receipt of the written claim; or ii.) receipt of any additional information requested from Contractor. 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 Contractor being awarded the relief claimed or in any other relief or penalty.

**GC-6 INDEMNIFICATION**

Contractor 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 Contractor or the violation of any of the terms and conditions of this Agreement, including, without limitation,

finances and penalties, violations of federal, state or local laws or regulations promulgated hereunder, personal injury, wrongful death or property damage claims. Should Contractor 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 Contractor.

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

#### **GC-7 ADDITIONAL INSURANCE REQUIREMENTS**

In addition to the required General Liability Insurance coverage and limits contained in Section 7 of the Contract, the following terms and conditions related to Insurance shall apply:

A. Workers Compensation

Prior to the execution of this Agreement by Commission, Contractor shall obtain, and provide evidence of statutory Worker's Compensation and Employer's Liability Insurance for all of its employees engaged in the Work. Such insurance shall be maintained throughout the term of this Agreement.

B. Notice to Commission

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

C. Umbrella Policy

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

D. 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 Agreement shall be authorized to do business in the Commonwealth of Virginia.

E. No Exclusions

Contractor's insurance policies and/or coverages shall not contain any exclusions for Contractor's subcontractors.

F. Maintenance of Insurance

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

G. Insurance Not To Be Limit on Liability

Nothing contained in the insurance requirements is to be construed as limiting the liability of Contractor, and/or its subcontractors, or their insurance carriers may have under this Agreement, including without limitation the indemnification provision contained herein. The Commission does not in any way represent that the coverages or limits of insurance specified are sufficient or adequate to protect Contractor's interest or liabilities, but are merely minimums. The obligation of Contractor, and its subcontractors, to purchase insurance shall not in any way limit the obligations of Contractor in the event that the Commission or any of those named above should suffer any injury or loss in excess of the amount actually recoverable through insurance. Furthermore, there is no requirement or obligation for the Commission to seek any recovery against Contractor's insurance company before seeking recovery directly from Contractor.

H. Additional Insureds

Prior to execution of this Agreement by Commission, Contractor shall provide the Executive Director with an exact copy of the additional insured endorsement naming the entities listed above as additional insureds, and 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, Contractor 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 Contractor's general liability, notwithstanding other insurance covering the Commission.

## **GC-8 REQUIREMENTS IMPOSED BY STATE and FEDERAL LAW**

### **A. NON-DISCRIMINATION**

1. During the performance of this Agreement, Contractor agrees as follows:

- (a.) Contractor 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 Contractor.

Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- (b.) Contractor, in all solicitations or advertisements for employees placed by or on behalf of Contractor, will state that Contractor is an equal opportunity employer.
- (c.) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

- 2. Contractor will include the provisions of the foregoing paragraphs 1, 2, and 3. In every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.
- 3. **The Roanoke Regional Airport Commission does not discriminate against faith-based organizations.**

**B. DRUG FREE WORKPLACE**

During the performance of this Agreement, Contractor agrees to (i) provide a drug-free workplace for Contractor'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 Contractor'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 Contractor that Contractor 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 subcontractor or vendor.

**C. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED**

Contractor 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.

**D. EVIDENCE OF AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA**

Pursuant to 2.2-4311.2 (A) of the Code of Virginia (1950), as amended, if Contractor 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, Contractor shall provide documentation acceptable to Commission establishing that Contractor 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. Contractor 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 Agreement if Contractor fails to remain in compliance with the provisions of this section.

**GC-9** The new regulations require that the EEO clause shall be made a part of the Agreement by citation 41 CFR 60-300.5(a) and 41 CFR 60-741(a).

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

**GC-10 GENERAL CIVIL RIGHTS PROVISIONS**

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

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

Compliance with Nondiscrimination Requirements

During the performance of this Agreement, Contractor, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** 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. Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by 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 Contractor of Contractor's obligations under this Agreement and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, 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 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 Contractor under the contract until Contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** 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. 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 Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, Contractor may request the United States to enter into the litigation to protect the interests of the United States.

#### Title VI List of Pertinent Nondiscrimination Authorities

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

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

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 ET seq).

**GC-11 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.

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

**GC-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. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the



employee. Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement with the U.S. Department of Labor-Occupational Safety and Health Administration.

### **GC-13 CANCELLATION**

#### **A. For Cause**

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

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

#### **B. Without Cause**

The Executive Director of the Commission may cancel the Agreement without cause at any time upon sixty (60) days advance written notice, and may stop the work at any time during the sixty day period, provided that Contractor 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-14 GOVERNING LAW AND VENUE**

The provisions of this Agreement 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 Agreement. Every action brought under or related to this Agreement 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-15 SEVERABILITY**

Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and shall be inoperative, and all remaining provisions of this Agreement shall remain operative and binding on the parties. This Agreement shall be construed and interpreted without regard to the identity of the party which drafted its various provisions. Every provision of this Agreement 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 Agreement, and such principle or rule is expressly waived by the parties to this Agreement.

**GC-16 ENTIRE AGREEMENT**

The Contract Documents embody the entire understanding between the parties. There are no oral agreements or representations in connection herewith.

**GC-17 SURVIVAL**

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

**GC-18 DUPLICATE COPIES**

This Agreement 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-19 HEADINGS**

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