

Form of Agreement for (Design Professional)

**Planning, Architectural/Engineering and Related Services for
Terminal Modernization Program
at the Capital Region International Airport**

Between

Capital Region Airport Authority

and

[Design Professional]

Contract No.: 19-04____

TABLE OF CONTENTS

	Page
Article I – General Provisions	2
Article II – Terms of Agreement.....	18
Article III – Covenants/Warranties/Certifications/Resolution/Assurances.....	43
Article IV – Agreement Execution.....	67
Exhibits	68
Exhibit A - Scope of Services	
Exhibit B - Key Personnel	
Exhibit C - Fees	
Exhibit D - Reimbursable Expenses	
Exhibit E - Invoice Format	
Exhibit F - Additional Deliverables	
Exhibit G - Airport Authority’s Budget	
Exhibit H - Airport Authority’s Design and Construction Schedule	
Exhibit I - Anti-Terrorism Certificate	
Exhibit J - Badging and Access Requirements	
Exhibit K - Request for Qualifications (RFQ) and RFQ Addendums	

THIS AGREEMENT is made and entered into this ____ day of _____, 2019, by and between the **CAPITAL REGION AIRPORT AUTHORITY**, a Public Body Corporate, with offices located at Capital Region International Airport, 4100 Capital City Boulevard, Lansing, Michigan 48906 (hereinafter referred to as the “Airport Authority”); and **[Name of Design Professional Entity]**, a [Type of Entity], with principal offices located at _____ (hereinafter referred to as the “Design Professional”). The Airport Authority and the Design Professional may be referred to hereinafter individually as a “Party” or collectively as the “Parties”.

WHEREAS, pursuant to Act 73 of the Public Acts of 1970 (“Act 73”), Capital City Airport, now Capital Region International Airport, located in DeWitt Township, Michigan was transferred to the jurisdiction of the Airport Authority. Mason Jewett Field Airport, located in Vevey Township, Michigan, was purchased by the Airport Authority in 1077 and is also under the jurisdiction of the Airport Authority. The Capital Region International Airport (LAN) and Mason Jewett Airport (TEW) collectively shall be referred to hereinafter as the “Airports”, and the Airport Authority has the power and duty of planning, promoting, extending, owning, maintaining, acquiring, purchasing, constructing, improving, enlarging and operating the Airports and airport facilities; and

WHEREAS, the Airport Authority anticipates assigning planning, design, engineering and related services for projects and tasks required to complete modernization of the Capital Region International Airport terminal as outlined in RFQ Solicitation No. 19-04, and other similar projects and tasks identified by the Airport Authority within the Term of this Agreement, once all necessary approvals are received; and

WHEREAS, the Design Professional represents that it possesses the necessary qualifications to perform the planning, architectural/engineering and related services required by this Agreement.

WHEREAS, this Agreement specifically adopts the provisions of the RFQ issued on July 29, 2019 and any addendums thereto, except that if there are any inconsistencies between the RFQ or addendums and this Agreement, this Agreement shall control.

NOW, THEREFORE, in consideration of the premises and mutual undertakings of the Parties hereto, it is agreed as follows:

ARTICLE I
GENERAL PROVISIONS

I-1 Contract Management

All Services undertaken pursuant to this Agreement shall be managed by a staff person designated in writing by each of the parties.

I-2 Project Description

The Airport Authority desires to engage the Design Professional to perform and provide services as selected by the Airport Authority including, but not limited to, planning, financial consulting, energy efficiency consulting, architectural, engineering and other consulting services required for Projects and/or Tasks at the Capital Region International Airport, to assist in the bid process for selection of businesses to construct the Projects, and for services related to oversight of the construction of any of the Projects. All of said Work to be provided by the Design Professional shall be referred to as "Services".

The term of this Agreement (hereinafter defined as "Term") shall commence on the date established by the Airport Authority in its written notice to the Design Professional and shall continue to the extent: (i) the Airport Authority retains funds available to pay for the Services; (ii) the Design Professional continues to perform Services to the satisfaction of the Airport Authority; and (iii) the Services assigned to the Design Professional are completed as required by this Agreement. The Term of this Agreement shall be for a period of five (5) years with one optional three (3) year extension exercisable at the discretion of the Airport Authority.

As determined by the Airport Authority, the Services may include, but shall not be limited to, planning, environmental, civil, structural, mechanical, and electrical engineering; architectural design; utilities and infrastructure design; storm water and drainage system design; surveying; preparation of plans, specifications, design reports, and engineer's reports; technical studies; assistance related to cost estimating, scheduling, permitting, bidding, and award; preparation of construction project manuals; attendance at any and all meetings and conferences related to the Projects, construction administration

and resident engineering inspection; quality acceptance testing; project record-keeping and close-out services; and all other related services for the Projects, which shall be generally described in Exhibit A to this Agreement (the General Scope of Services). By mutual agreement and at any time during the Term of this Agreement, the Parties may modify the Projects and Tasks referenced in Exhibit A.

I-3 Contract Terminology and Procedures

- I-3.a. The headings of the Sections in this Agreement are for convenience only and shall not be used to construe or interpret the scope or intent of this Agreement or in any way affect the same.
- I-3.b. Unless the context otherwise expressly requires, the words, “herein”, “hereof” and “hereunder”, and other words of similar import, refer to this Agreement as a whole and not to any particular Article, Section, or other subdivision.
- I-3.c. As used herein, the singular shall include the plural, and the plural shall include the singular, and the use of any gender shall be applicable to all genders.
- I-3.d. As used herein, the term Airport Authority shall mean the business entity that manages, operates and maintains the Airports, and all of its officers, Board members, directors, employees, agents and authorized representatives.
- I-3.e. For purposes of the hold-harmless (indemnification) provisions contained herein, the term Indemnified Parties shall be deemed to include the Airport Authority, as well as any and all associated, affiliated, or subsidiary entities, now existing or hereafter created, Board members, officers, directors, employees, agents, and other authorized representatives of the Airport Authority.
- I-3.f. The Services to be provided by the Design Professional are those described in General Scope of Services, Exhibit A, which are based on those outlined in RFQ Solicitation No. 19-04.
- I-3.g. As used herein, the term “Authorization for Services” or “AFS” shall be defined as the written authorization issued by the Airport Authority, to the Design Professional, notifying the Design Professional to provide Services for a specific Project or Task. The AFS shall be issued by the Airport Authority following a mandatory collaborative process (hereinafter referred to as

the “Project/Task Services Development”) between the Parties in which information and documentation is exchanged to define the scope, schedule, and compensation, and other aspects related to Services for a Project or Task. Project/Task Services Development shall begin when the Airport Authority provides information on a proposed Project or Task to the Design Professional, and no later than fourteen (14) days after the receipt of the same the Design Professional shall return a Services proposal to the Airport Authority with all relevant information clearly delineated, including but not limited to the following: (i) any and all proposed staff to be assigned to perform the Services noting each by personnel classification and a generally accurate estimate of the number of hours necessary to complete the Services; (ii) the hourly rates for all personnel (in accordance with the terms and conditions of this Agreement); (iii) any and all, subconsultants, vendors, suppliers, agents and the like (broken out by Task) to be used by the Design Professional to perform the Services and inclusive of the actual costs associated with each subcontractor, subconsultant, vendor, supplier and agent; (iv) a comprehensive and all-inclusive list of Reimbursable Expenses related to the Services and inclusive of any and all multipliers to be used during the Term of this Agreement (in accordance with the terms and conditions of this Agreement); (v) any additional Services and/or Tasks necessary to accomplish the Airport Authority’s goals but which were not necessarily originally provided by the Airport Authority; (vi) a detailed, task oriented schedule showing durations for all Tasks to be performed as part of the Services; (vii) any and all contingencies applicable to the Tasks to be performed as part of the Services; and (viii) any other information and/or documentation requested by the Airport Authority. Once the Project/Task Services Development process is complete and the Airport Authority issues an AFS, the Design Professional shall not be entitled to change or amend any information in the AFS without the prior, express written consent of the Airport Authority through its Chief Executive Officer or his designee and through the issuance of a Revised AFS. To this end, the Project/Task Services Development and issuance of the AFS shall result in an irrevocable scope and Compensation, which may not be exceeded, changed or altered without the

express written consent of the Airport Authority through its Chief Executive Officer or his designee. Unless otherwise provided in the AFS, the AFS shall describe the specific scope of services authorized for a Project or Task, identify the Compensation which has been authorized for the Services for the Project/Task as described in the AFS. Unless otherwise provided in the AFS, the AFS shall also include a Project/Task Schedule (as defined herein) or otherwise establish a deadline for the Design Professional to provide a Project/Task Schedule for approval by the Airport Authority. Additionally, if the estimated construction cost for a Project (“Estimated Construction Cost”) is not established in the AFS, the AFS shall identify the Services required for development of the Estimated Construction Cost and the deadline within which it shall be provided to the Airport Authority for approval, unless the AFS recognizes that an Estimated Construction Cost is not required. As all Services authorized by an AFS must be within the scope of the General Scope of Services (Exhibit A) and therefore previously legally authorized by the Airport Authority, the AFS need only be approved by the Airport Authority’s Chief Executive Officer or his designee. The Design Professional shall not perform any Task, undertake any Service, perform any Work, incur any expense of any type, or otherwise make a claim for any amount or extension of time unless the Task, Service, Work, expense, claim and/or extension of time were specifically authorized by the Airport Authority through its Chief Executive Officer or his designee in the AFS. The Design Professional irrevocably waives and forever releases any and all claims for additional compensation and additional time which was not permitted by the AFS, as determined in the sole and absolute discretion of the Airport Authority through its Chief Executive Officer or his designee.

I-3.h. The term “Project” or “Projects” may refer to one of the Projects listed in Exhibit A. An Individual Project may be specifically identified in the General Scope of Services, Exhibit A to this Agreement and/or in an AFS.

I-3.i. The term “Task” shall refer to one component of a Project, or an effort associated with multiple Projects, or an effort that is not associated with any Project. The Parties agree a Task may

require Services not associated with any Project, but nonetheless be required as part of this Agreement.

- I-3.j. The term “Project/Task Schedule” as used herein shall refer to the schedule established between the Airport Authority and the Design Professional in collaboration with the Construction Professional which establishes the deadlines and milestones by which the Design Professional shall provide the documents, Instruments of Service, and/or other deliverables required by an AFS for any Project or Task.
- I-3.k. The term “Estimated Construction Cost” as used herein shall mean the estimated cost to completely and entirely construct any Project which shall be the budget for construction of the Project to be designed to by the Design Professional. If the Estimated Construction Cost is not established in an AFS, the Estimated Construction Cost shall be developed by the Design Professional and provided to the Airport Authority for approval within the time deadline established in the AFS. Alternatively, the Airport Authority may specifically omit the Estimated Construction Cost from any AFS to the extent deemed unnecessary to the Project or Task.
- I-3.l. The term “Work” as used herein shall be synonymous with the term “Services” and shall refer to the services provided by the Design Professional with respect to any Project or Task as described or inferred from this Agreement or any AFS.
- I-3.m. The term “Contract Documents” as used herein shall refer to the design documents, including plans, specifications and Instruments of Service provided by the Design Professional as required by this Agreement and an AFS for a Project or Task.
- I-3.n. The term “Construction Administration” shall refer to the services provided by the Design Professional during the construction of a Project or Projects including, but not limited to: (i) the review and approval of shop drawings and other submittals provided by the Construction Professional to confirm conformance with the requirements of the Contract Documents; (ii) the review and evaluation of the Construction Professional’s Applications for Payment; (iii) the observation, inspection and Quality Assurance review of the Construction Professionals’ Work; (iv) the evaluation and recommendation of Substantial Completion and Final

Completion; and (v) the initial resolution of disputes between the Airport Authority and Construction Professional. All Construction Administration Services provided by the Design Professional shall be subject to terms and provisions of this Agreement, an AFS, and the term of any agreement between the Airport Authority and the Construction Professional for any Project.

I-3.o. The term "Amendment" as used herein shall mean a written agreement between the Airport Authority and the Design Professional which changes the General Scope of Services, Exhibit A, the Contract Amount or the Term as stated in this Agreement. No Amendment shall be valid or binding on the Airport Authority unless it is signed by an authorized representative of the Airport Authority with legal authority to enter into contracts on behalf of the Airport Authority.

I-3.p. As used herein, the term "Additional Services" shall mean all Services not specifically authorized by this Agreement. Additional Services must be authorized by an Amendment as described in I-3.o and prior to the Design Professional performing any Additional Services. Notwithstanding anything to the contrary herein, the Design Professional shall not submit any invoice, tender any claim, and/or seek the payment for any Compensation of any type or amount for Additional Services without first obtaining the prior written approval of the Airport Authority. If the Design Professional performs Additional Services without first obtaining the prior written approval of the Airport Authority, the Design Professional irrevocably waives and forever releases the Airport Authority from any and all claims and liabilities arising from and related to the Additional Services and the unauthorized Additional Services shall be performed at the Design Professional's sole cost and expense.

I-3.q. As used herein, the term "Revised Authorization for Services" or "Revised AFS" shall be a written order issued by the Airport Authority directing a change in the Services authorized for a Project or Task by an AFS. Upon issuance of a Revised AFS, the Design Professional shall immediately revise the Services for a Project or Task as directed. A Revised AFS is not an Amendment to this Agreement as defined in paragraph I-3.o. and does not require approval

as provided in I-3.o. A Revised AFS shall be approved by the Airport Authority through its Chief Executive Officer or his designee.

I-3.r. The procedures set forth in this Agreement for the administration of this Agreement shall apply to the separate administration of each Project or Task. This includes, by way of example and not a limitation, the procedures for Amendments, Directives, Claims, Termination and Payment, but not Audits.

I-3.s. AFSs, Project/Task Schedules, and Estimated Construction Costs establish the terms, conditions and obligations for Services that are within the General Scope of Services, Exhibit A, which have been approved by the Airport Authority by the execution of this Agreement; therefore AFSs, Project/Task Schedules and Estimated Construction Costs are not an Amendment to this Agreement.

I-3.t. As used herein, the term "Standard of Care" refers to the required standard for the Services to be provided by the Design Professional. All Services provided by the Design Professional shall comply with the requirements of any and all laws, codes, ordinances, rules and regulations applicable to the Project, the proposed Scope of Work or promulgated by any federal, state and local Authority Having Jurisdiction ("AHJ") regarding the Project and/or Task. The Services shall be provided with the degree of skill and care that would be used by a similar architect working on similar projects in the state of Michigan. All design documents and/or Instruments of Service provided by the Design Professional must clearly and accurately indicate or illustrate all essential points of the Work to which they refer. The Airport Authority's knowledge or approval of the Design Professional's use of any subconsultant to perform any portions of Services required for any Project or Task shall not relieve, release or absolve the Design Professional of its responsibility for all Services provided pursuant to this Agreement. The Design Professional represents that it and each of its subconsultants shall be properly licensed in the jurisdiction of the Projects or Tasks and legally authorized to perform the Services to be provided by them. Further, the Design Professional agrees that each of its employees and the employees of its subconsultants shall be qualified to perform the Services

assigned to them in the performance of this Agreement. At any time, and without any additional cost or expense to the Airport Authority, the Airport Authority may reject any subconsultants, vendors, suppliers and agents used by the Design Professional to perform any portion of the Work, and the same shall be immediately replaced with a replacement acceptable to the Airport Authority as determined by its Chief Executive Officer or his designee.

- 1.3.u. As used herein, the term "Instruments of Service" refers to any and all preliminary or final designs, engineering data and conclusions, machinery drawings, plant layouts and all other drawings, specifications and other documents and electronic data prepared by the Design Professional.
- 1.3.v. The Airport Authority and Design Professional agree this Agreement will be federally funded from time to time and, where federally funded, will be subject to the requirements set forth in Title 49 CFR Part 18.36.

I-4 Design to Budget

- I-4.a. To the extent the Services provided by the Design Professional will result in the construction of a Project (in whole or in part), the Design Professional shall perform the Services required under this Agreement so as to permit the award of a contract for construction of a Project, or portion(s) of the Projects defined by the Airport Authority, at an amount and all-inclusive total construction cost to the Airport Authority that does not exceed the Estimated Construction Cost established for each Project or the Projects. When probable construction cost reports or bids/proposals for the construction contract(s) are received for a Project that exceed the Estimated Construction Cost, the Design Professional shall perform any and all redesign or modifications and other Services necessary to permit award of a construction contract for an amount and all-inclusive total construction costs that does not exceed the Estimated Construction Cost. The Design Professional's redesign, modifications and other Services shall be performed at no increase in the Compensation set forth in the AFS(s) and without any payment of any amount or type from the Airport Authority as it is specifically agreed the Design

Professional shall bear any and all expenses, costs and liabilities required to redesign and modify the Project(s). If the Airport Authority determines, in its sole and absolute discretion, that unfavorable probable construction cost reports or bids/proposals are the result of conditions beyond the Design Professional's reasonable control, those factors will be taken into consideration in determining whether the Design Professional may be entitled to any additional Compensation for Services required for a Project or Projects. However, under no circumstances shall there be any increase in any Compensation authorized by this Agreement except by an Amendment duly executed by an authorized representative of the Airport Authority in accordance with applicable law and as provided in paragraph I.3.o.

- I-4.b. The Design Professional shall immediately advise the Airport Authority if it finds that the Project or Projects being designed will exceed or are likely to exceed the Estimated Construction Cost, and if the Design Professional is unable to design a usable project within these limitations. Upon receipt of such information, the Airport Authority will review the Design Professional's revised estimate of construction cost. The Airport Authority may, if it determines that the established Estimated Construction Cost set forth is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated cost for construction to an amount within the established Estimated Construction Cost, or the Airport Authority may determine to exceed the established Estimated Construction Cost. The Design Professional shall proceed following the written direction of the Airport Authority.

I-5 Responsibility of the Design Professional

- I-5.a. The Design Professional shall be responsible for the professional quality, technical accuracy, and the coordination of Services furnished by any and all employees, agents and staff of the Design Professional and/or any subconsultant to the Design Professional, which obligations shall include the duty to coordinate all elements of the Project design with engineered systems provided by the Construction Professional including, but not limited to life safety systems such as the fire alarm and fire protection system and the structural elements of the building including

any individual component on cladding, all in compliance with the Standard of Care, except as expressly provided in an AFS. The Design Professional shall, without any Compensation, correct or revise any errors, omissions, or deficiencies in the Services.

- I-5.b. The Design Professional shall provide administrative, management and related services as required to coordinate the Work with the Construction Professional in its role at Construction Manager as Advisor (CMA) and/or role as Construction Manager at Risk (CMR) and their subconsultants and subcontractors with each other and the Airport Authority to complete the Terminal Modernization Program and its Projects in accordance with the Airport Authority's objectives for cost, time and quality.
- I-5.c. The Design Professional with the Construction Professional shall establish on-site organization and lines of authority in order to carry out the overall plans of the Design Professional and Airport Authority. The Design Professional with the Construction Professional shall establish procedures for coordination among all required parties, and implement such procedures.
- I-5.d. Consistent with the Project Schedule issued with the bidding documents, and utilizing the schedules prepared by the Construction Professional, the Design Professional in cooperation with the Construction Professional shall update the Projects, including sequences and durations, allocation of labor and materials, processing of shop drawings, product data and samples, and delivery of products requiring long lead time procurement. The Design Professional with the Construction Professional shall include the Airport Authority's occupancy requirements showing portions of the Project having occupancy priority. The Design Professional with the Construction Professional shall update and reissue the Project Schedules as required to show current conditions and revisions required by actual experience.
- I-5.e. Neither the Airport Authority's review, approval or acceptance of, nor payment for, any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and the Design Professional shall be and remain liable to the Airport Authority in

accordance with applicable law for any and all damages and/or liabilities to the Airport Authority caused by the Design Professional's negligent performance of any of the Services furnished under this Agreement or other failure to meet the Standard of Care.

- I-5.f. The Airport Authority makes no representation or warranty as to the accuracy of the Airport Authority provided information all of which is provided for the Design Professional's convenience. The Design Professional shall be responsible to verify all existing conditions within any Project site. The Design Professional's verification must include horizontal and vertical locations of the existing conditions. The Design Professional must submit field inspection reports to the Airport Authority as a precondition of invoice for payment of Services related to field inspection tasks. The Design Professional shall advise the Airport Authority in writing no later than five (5) calendar days from the first discovery of differing field conditions if conditions differ from those shown on records provided by the Airport Authority or an agent of the Airport Authority. Should the Airport Authority determine that a differing field condition exists which the Design Professional could not or should not have anticipated prior to performing the Services, the Design Professional may be entitled to an extension of time to perform the Services and/or additional Compensation as determined by the Airport Authority.
- I-5.g. The Design Professional shall work in conjunction with other Project(s) members including but not limited to: the Airport Authority and its staff, the Design Professional's subconsultants, specialty Design Professionals, if any, hired by the Airport Authority as part of the Project(s) under this Agreement, any and all state and local governmental agencies, and the FAA.
- 1-5.h. The Design Professional shall be responsible for all other duties as set forth in this Agreement and any AFS issued pursuant to this Agreement.
- 1-5.i. The Design Professional in cooperation with the Construction Professional shall endeavor to achieve satisfactory performance from the Construction Professional and its subcontractors. When the requirements of a trade contract are not being fulfilled, and the nonperforming party will not take satisfactory corrective action, the Design Professional with the Construction

Professional will take appropriate action, and notify the Airport Authority of the action and the results achieved.

- 1-5.j. The Design Professional in cooperation with the Construction Professional shall develop and implement a system for the preparation, review and processing of Change Orders. The Design Professional shall recommend necessary or desirable changes to the Construction Professional and the Airport Authority, review requests for changes, negotiate proposals, submit recommendations to the Construction Professional and the Airport Authority, and if they are accepted, prepare and sign Change Orders for the Design Professional's signature and the Airport Authority's authorization.
- 1-5.k. The Design Professional in coordination with the Construction Professional shall develop and implement procedures for the review and processing of applications for progress and final payments, such procedures to be consistent with this Agreement. The Design Professional with the Construction Professional shall make recommendations to the Airport Authority for certification for payment.
- 1-5.l. If required, the Design Professional in cooperation with the Construction Professional shall assist the Airport Authority in selecting and retaining the professional services of surveyors, special consultants and testing laboratories. The Design Professional in cooperation with the Construction Professional shall coordinate their services.
- 1-5.m. The Design Professional in cooperation with the Construction Professional shall determine in general that the Work of the Construction Professional's subconsultants or subcontractors is being performed in accordance with the requirements of the Contract Documents. The Design Professional shall endeavor to guard the Airport Authority against defects and deficiencies in the Work. The Design Professional shall as appropriate, require special inspection or testing, or make recommendations to the Construction Professional regarding special inspection or testing, of Work not in accordance with the provisions of the Contract Documents whether or not such Work be then fabricated, installed or completed. Subject to review by the Construction Professional, the Design Professional shall reject Work which does not conform

to the requirements of the Contract Documents. The Design Professional shall determine the adequacy of the trade contractors' personnel and equipment and the availability of materials and supplies to meet the Project Schedules. The Design Professional shall develop courses of action when requirements of a trade contract are not being met. The Design Professional shall consult with the Construction Professional and the Airport Authority if any trade contractor requests interpretations of the meaning and intent of the plan Specifications and Drawings, and assist in the resolution of questions which may arise.

- 1-5.n. The Design Professional shall receive from the trade contractors and review all product data, samples and other submittals. The Design Professional shall coordinate them with information contained in related documents and transmit to the Construction Professional those recommended for approval. In collaboration with the Construction Professional, the Design Professional shall establish and implement procedures for expediting the processing and approval of product data, samples and other submittals.
- 1-5.o. The Design Professional shall maintain at the Project site on a current basis: a record copy of all trade contracts, Drawings, Specifications, addenda, Change Orders and other modifications, in good order and marked to record all changes made during construction; shop drawings; product data; samples; submittals; purchases; materials; equipment; applicable handbooks; maintenance and operating manuals and instructions; other related documents and revisions which arise out of the trade contracts or Work.
- 1-5.p. The Design Professional shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels, key site elevations, and all underground utilities (with coordinates, elevations and photographs) certified by a qualified surveyor or professional engineer. The Design Professional shall make all records available to the Airport Authority and the Construction Professional. The Design Professional shall at the completion of the Project, deliver all such records to the Airport Authority in the format and level of detail required by the Airport Authority.

- 1-5.q. The Design Professional shall observe each trade contractor's checkout of utilities, operational systems and equipment for readiness and assist in their initial start-up and testing.
- 1-5.r. When the Design Professional considers each trade contractor's Work or a designated portion thereof substantially complete, the Design Professional shall prepare for the Construction Professional a list of incomplete or unsatisfactory items and a schedule for their completion. The Design Professional shall assist the Construction Professional in conducting inspections. The Design Professional shall coordinate the correction and completion of the Work.
- 1-5.s. The Design Professional shall assist the Construction Professional in determining when the Project or a designated portion thereof is substantially complete. The Design Professional shall prepare for the Construction Professional a summary of the status of the Work of each trade contractor, listing changes in the previously issued certificates of substantial completion of the Work and recommending the times within which trade contractors shall complete uncompleted items on their certificate of substantial completion of the Work.
- 1-5.t. Following the Design Professional's issuance of a certificate of substantial completion of the Project or designated portion thereof, the Design Professional shall evaluate the completion of the Work of the trade contractors and make recommendations to the Construction Professional when Work is ready for final inspection. The Design Professional shall assist the Construction Professional in conducting final inspections. The Design Professional shall secure and transmit to the Airport Authority required guarantees, affidavits, releases, bonds and waivers. The Design Professional shall deliver all keys, manuals, record drawings and maintenance stocks to the Airport Authority, upon the earlier of: (i) prior to Final Payment; or (ii) within 60 days of Substantial Completion.
- 1-5.u. Any provision hereof to the contrary notwithstanding, the Design Professional shall observe and abide by and perform all of its obligations hereunder in accordance with all applicable laws, rules and regulations of all governmental authorities having jurisdiction. The Design

Professional shall directly interact with all regulatory agencies as appropriate and required by the Airport Authority to coordinate construction activities and processes.

- 1-5.v. The Design Professional acknowledges that the Airport Authority is relying on the Design Professional's skill and expertise in projects of the type contemplated herein. The Design Professional represents to the Airport Authority that it has the required skill, knowledge and expertise necessary to perform the Services consistent with the Standard of Care and that all such Services shall be provided timely as required by the AFS(s) for the orderly progress of the Project or Projects. In the event any Services do not meet the Standard of Care, the Design Professional shall be responsible for 100% of the Airport Authority's costs and expenses (of any type and any amount) required to cure such breach and all resulting damages. If due to the Design Professional's failure to meet the Standard of Care, any item(s) or component(s) necessary for the proper performance or operation of Project is omitted from the Contract Documents, the Design Professional may not be responsible for paying the full cost of such item or component(s) to the extent that such item or component(s) would have been otherwise necessary for the Project or Projects in which event the Design Professional shall be responsible for the incremental cost to include the item or component in the Project or Project(s) at a later date. However, if it is determined that a different design or system would have been appropriate and more cost effective than the design selected by the Design Professional, the Design Professional shall be responsible for the entire cost to incorporate any additional item, component or system into a Project or Project(s) necessary for the Project or Project(s) to function as intended. If it is determined that a cost saving could have been achieved if the omitted item was competitively bid, then the Design Professional shall be responsible for that incremental cost.

I-6 The Airport Authority's Responsibilities

- I-6.a. Furnish for the use of the Design Professional, the Airport Authority's design standards and such other general design parameters and coordination information as may be available.

- I-6.b. Review submittals by the Design Professional and provide direction in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of Services.
- I-6.c. Pay the Design Professional for Services rendered according to the schedule established in Section II-16 of this Agreement and the terms of any AFS. Notwithstanding anything to the contrary herein, the Airport Authority is vested with the sole and absolute discretion to dispute any Compensation, amount and/or sum claimed due and owing by the Design Professional, it being expressly understood and agreed the Airport Authority's obligation to make payments only extends to undisputed amounts determined by the Airport Authority. The Design Professional shall continue to perform the Services and may not suspend or delay the Work provided the Airport Authority tenders payments for all undisputed amounts.
- I-6.d. Furnish to the Design Professional information that is available that identifies the type and location on the site of underground utilities. The Airport Authority does not guarantee the accuracy of this information, if available. It shall be the Design Professional's sole and exclusive responsibility to field-verify all underground utilities, where applicable.
- I-6.e. Direct the flow of Airport information to the Design Professional.
- I-6.f. Review progress of design activities and preparation of bid documents.
- I-6.g. Implement and maintain cost control procedures.
- I-6.h. Administer the Design Professional's invoice review process.
- I-6.i. Authorize in a timely manner the AFSs, Project/Task Schedules and Estimated Construction Costs.
- I-6.j. Coordinate between the Design Professional and the Construction Professional Request For Bids or Request for Proposal solicitations, assist with pre-bid or pre-proposal meetings, and award construction contracts.

ARTICLE II
TERMS OF AGREEMENT

II-1 Performance of Services

- II-1.a. Services shall be performed in accordance with the Project/Task Schedule as approved by

the Airport Authority and consistent with the Standard of Care.

II-1.b. The Design Professional agrees that in the performance of Services herein enumerated by it, or by an approved subconsultant, subcontractor, vendor, supplier and/or anyone acting on its behalf, it shall comply with the Standard of Care and the requirements of this Agreement.

II-1.c. The Services, or a portion of the Services, required under this Agreement shall commence immediately upon issuance of an AFS unless otherwise stated in the AFS, and continue in accordance with the approved Project/Task Schedule or continue until final acceptance by the Airport Authority of the constructed Project(s) or for Projects and/or Tasks assigned to the Design Professional pursuant to this Agreement.

II-2 Governance of Services

All laws, orders, codes, rules, regulations, and ordinances of any AHJ shall govern all Services. In case of a conflict, the most rigorous will apply and the Airport Authority shall be vested with the sole and absolute discretion to resolve any and all conflicts.

II-3 Professional Representation

By acceptance of this Agreement, the Design Professional represents that it is knowledgeable of any and all applicable orders, codes, laws, rules, regulations, and ordinances of any AHJ as such affect its Services; and that it is licensed to perform the Services described in this Agreement, and/or all of the Design Professional's subconsultants, agents and the like performing any Services related to this Agreement are properly licensed. The Design Professional shall comply with all such orders, laws, rules, regulations, and ordinances and shall be responsible for any and all damages and liabilities resulting from its failure to comply with such orders, codes, laws, rules and regulations in the provision of its Services in compliance with the Standard of Care.

II-4 Sufficient Number of Qualified Employees

The Design Professional shall employ and retain a sufficient number of qualified employees, subconsultants and/or agents to provide the Services described in this Agreement, in accordance with the approved Project/Task Schedule(s) and the Standard of Care. Such qualified employees, subconsultants and/or agents shall include those individuals identified in Exhibit B and/or any AFS. Once

identified, the Design Professional shall not replace assigned individuals and subconsultants without the express written permission of the Airport Authority by and through its Chief Executive Officer or his designee. The Design Professional shall not add any key personnel and/or subconsultant without first providing a written request to the Airport Authority and receiving written approval from the Airport Authority through its Chief Executive Officer or his designee. The Airport Authority, by and through its Chief Executive Officer or his designee, may demand the replacement of any of the Design Professional's employees, subconsultants and/or agents without cause, and without cost or expense of any type or amount to the Airport Authority. The Design Professional shall not invoice or seek any Compensation from the Airport Authority for any time spent by newly assigned employees, subconsultants and/or agents to learn the Project and/or Task and acclimate themselves to the Work and Services performed to date. All such cost and expense associated with newly assigned employees, subconsultants and/or agents to the Project and/or Task shall be borne solely by the Design Professional. The Compensation related to newly assigned employees, subconsultants and/or agents shall not exceed the Compensation set forth in Exhibit C and Exhibit D, as determined in the sole and exclusive discretion of the Airport Authority.

II-5 Professional Endorsement of Work

The Design Professional shall employ professionals licensed to practice architecture and/or engineering and/or surveying in the State of Michigan and shall provide copies of all licenses as well as signed and sealed documents prepared pursuant to this Agreement to any Authority Having Jurisdiction upon request by the Airport Authority. In entering this Agreement, the Airport Authority relied upon the qualifications of the Design Professional's proposed team to provide the agreed upon Services.

II-6 Deliverables

For Services set forth herein, and as a precondition to the Airport Authority approval of any of the Design Professional's invoice for Services, the Design Professional shall deliver to the Airport Authority, in addition to the items specified for each Project/Task, the following (except as specifically excluded in the AFS):

1. Copies of field inspection reports verifying existing conditions, as further described in Section I-5c;

2. Copies of a monthly report by Project/Task with Project/Task Number, describing the start and end dates of the preceding period that Services were performed, Services completed in the period, Services anticipated for the proceeding period, status of the design budget, status of the Project/Task Schedule(s) and any potential concerns or problems with any Project/Task design, budget or schedule; and
3. Additional deliverables are delineated on the attached Exhibit F.

II-7 Acceptance of Documents

All questions which may arise as to the quality and acceptability of the Services provided by the Design Professional pursuant to this Agreement and any AFS, the progress of the Work or the interpretation of what the completed product should be shall be decided by the Airport Authority. The Airport Authority shall determine within its sole discretion whether the Services provided by the Design Professional comply with the terms of this Agreement.

II-8 Commencement of Services

The Design Professional shall not be entitled to any Compensation for Services provided prior to issuance of an AFS or which are not authorized by an AFS. Commencement of Work or the provision of Services authorized by an AFS shall be deemed an acknowledgement that the Design Professional is in agreement with the terms of an AFS.

II-9 Ownership of Documents

II-9.a. Upon execution of this Agreement, the Airport Authority shall have unlimited rights in all drawings, specifications, Instruments of Service or other Contract Documents, reports, letters, studies and designs, developed in the performance of this Agreement, without additional Compensation to the Design Professional. The Design Professional hereby grants to the Airport Authority a duty free, irrevocable, fully paid-up license throughout the world to all such Work or Services to which it may assert or establish any claim under design patent or copyright law. The Design Professional agrees all rights to inventions and materials generated under this Agreement are subject to regulations issued by the Federal Aviation Administration and the Airport Authority.

II-9.b. Upon completion or termination of this Agreement, or upon the written request of the Airport Authority, all documents prepared by the Design Professional and/or its subconsultants, including AutoCAD, Revit, BIM, TIFF and/or PDF drawing files, tracings, drawings, estimates, specifications, field notes, investigations, and studies, or other Instruments of Service, shall become the property of the Airport Authority. The Design Professional and its subconsultants may retain copies of said documents for information and reference. Documents prepared by the Design Professional, or its subconsultants, are only intended for the use of the Airport Authority.

II-10 Access to Work for Coordination Purposes

The Design Professional shall permit the Airport Authority and, as approved by the Airport Authority, other public agencies interested, the Design Professional's Services and work product undertaken in accordance with this Agreement, to have full access thereto during the progress of the Services being performed thereon.

II-11 Coordination with Other Design Professionals

To the extent that the Airport Authority contracts with multiple design professionals for activities related to the Airports, or any portion thereof, the Airport Authority may request the Design Professional to participate in the review and selection process of these other supporting/specialty design professionals. These other supporting/specialty design professionals shall become part of the Airport Authority's consulting team although their contracts will be held by the Airport Authority. If required by the Airport Authority, the Design Professional will assist in the coordination of the Services provided by other design professionals related to the Project(s) authorized by this Agreement.

II-12 Disputes

The occurrence of disputes between the Airport Authority and the Design Professional, or legal proceedings arising from such disputes, shall not relieve the Design Professional of its obligation to properly and expeditiously perform the Services in compliance with the requirements of this Agreement. The Design Professional shall inform the Airport Authority, in writing, no later than five (5) calendar days of the discovery of any dispute arising from or relating to this Agreement and/or no later than five (5)

calendar days after which the Design Professional should have discovered any dispute arising from or related to this Agreement. The Airport Authority shall not be liable to compensate the Design Professional for any additional costs accrued more than five (5) calendar days before the Airport Authority received written notice of that dispute, and the Design Professional hereinafter waives and releases the Airport Authority from any and all claims and liabilities which the Design Professional failed to properly provide a written notice of dispute as required by this Agreement. Notification of a dispute does not infer or result in liability in and of itself. Notwithstanding anything to the contrary herein, the Design Professional may not suspend Work or delay the performance of the Services during the pendency of a dispute.

The Airport Authority and the Design Professional will make good faith efforts to negotiate a resolution of any disputes. The initial negotiation shall be between representatives of the Design Professional and the Airport Authority. Disputes not resolved by negotiation within 60 days shall be submitted to mediation pursuant to the American Arbitration Association Construction Rules. At the Airport Authority's sole and exclusive option, for which separate consideration is acknowledged as received, any and all disputes between the Parties not resolved by mediation shall be resolved by arbitration before the American Arbitration Association in accordance with the then current Construction Rules of the American Arbitration Association, and any judgment or award issued by the arbitrator(s) shall be final and may be entered in any court having jurisdiction thereof. Any arbitration shall occur in Ingham County, Michigan. The initiating Party shall pay all arbitration filing fees. In the event the Parties are involved in any arbitration or Court proceedings arising out of this Agreement, the Airport Authority shall be entitled to recover all of its actual attorneys' fees, interest, costs, arbitration fees (including case administration fees and the arbitrator(s) fees), and expert witness fees if the Airport Authority is the prevailing Party. The Airport Authority, in its sole and absolute discretion, may consolidate and join any arbitration or legal proceeding with the Design Professional with any other arbitration or legal proceeding related to arising from the Project, including but not limited to any arbitration or legal proceeding related to the construction of the Project. Arbitration shall apply to all matters between the Airport Authority and Design Professional and Construction Professional, but shall not apply to third-party lawsuits nor matters that require immediate equitable relief.

II-13 Submittals for Agency Reviews

Any and all documents and/or Instruments of Service prepared as part of the Services furnished pursuant to Agreement shall be submitted to the Airport Authority for review and approval prior to transmittal to other regulatory agencies or AHJ. Specifically, the Design Professional agrees:

1. That any facility to be used in the performance of this Agreement is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder; and
3. That, as a condition for the award of this Agreement, the Design Professional will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the Agreement is under consideration to be listed on the EPA List of Violating Facilities

II-14 Subcontracting of Services

II-14.a. No portion of the Services shall be subcontracted, assigned, transferred, or otherwise disposed of without the prior written consent of the Airport Authority, through its Chief Executive Officer or his designee. Consent to subcontract, assign, transfer or otherwise dispose of any portion of the Services shall not be construed to relieve the Design Professional of any terms, conditions and obligations of this Agreement. Any subcontractor, subconsultant or assignee(s) approved by the Airport Authority, through its Chief Executive Officer or his designee, who provides or performs any Services required by this Agreement shall assume all obligations and perform all Services in compliance with the terms of this Agreement with acknowledgement that the Airport Authority is the ultimate beneficiary of the Work product, Instruments of Service and Services provided. The sale of fifty (50%) percent or more of the capital stock of the Design Professional (if the Design Professional is a corporation having

less than ten (10) shareholders) will constitute an assignment of this Agreement within the meaning of this Section.

II-14.b. The Airport Authority, through its Chief Executive Officer and/or his designee, reserves the right to fully assign the Agreement or delegate any duties hereunder to be performed by the Airport Authority without written consent of the Design Professional.

II-15 Additional Services

The Airport Authority may request that the Design Professional provide Additional Services not included in this Agreement by Amendment. The Airport Authority shall have no obligation to pay for any Additional Services not authorized by a properly executed Amendment as defined in paragraph I-3.o.

II-16 Compensation

II-16.a. For and in consideration of the Services rendered by the Design Professional, as set forth in this Agreement, and to the specific extent authorized by an AFS, the Airport Authority agrees to compensate the Design Professional based upon the actual hours (or mutually agreed lump sum), overhead, and profit provided in Exhibit C and Reimbursable Expenses in Exhibit D (collectively referred to as "Compensation"). The total Compensation available to the Design Professional pursuant to this Agreement, and any AFS issued pursuant to this Agreement, shall be consistent with requirements of Exhibit C and Exhibit D. Notwithstanding anything to the contrary herein, the total value of the Compensation to be paid for the Services authorized by this Agreement shall not exceed _____. It is understood and agreed that any and all of the Design Professional's costs and expenses arising from or related to the Project and/or Services, including but not limited to all federal, state and local taxes, are included in the Compensation. Furthermore, it is agreed that any monies, fees and/or Compensation may not be transferred between individual Projects or Tasks, or between subconsultants and the Design Professional, without prior written approval from the Airport Authority by and through its Chief Executive Officer or his designee.

- II-16.b. The Design Professional shall separately invoice the Airport Authority for the Services performed on each Project or Task on a monthly basis and no later than forty-five (45) days after the Services are performed. The Airport Authority shall approve and pay invoice(s) which are correct, complete and accurate. The Design Professional's invoices shall show for each employee of the Design Professional and/or subconsultant (as applicable) the following: such person's name and personnel classification, the specific days and hours worked, and the percentage completion of each category of Services, as well as detailed backup and justification for any agreed Reimbursable Expenses, as further defined in Section II-16.c, II-17 and II-18. The Design Professional's invoice submissions shall be accompanied by a completed "Invoice for Payment" form, an example of which is attached hereto and made a part hereof as Exhibit E. The Design Professional forever waives payment for any invoice which it fails to timely submit within ninety (90) days of performing the Services covered by the invoice.
- II-16.c. The Design Professional agrees to provide, in a format acceptable to the Airport Authority, such other documentation as may be required to support its invoice. The Design Professional also agrees to provide the Airport Authority a monthly activity report as required under Section II-6, Deliverables, which identifies for each Project and Task the percentage of Services completed and an update of the Project/Task Schedule.
- II-16.d. The Airport Authority shall reimburse the Design Professional, as part of its Compensation for the Services provided herein, for actual and reasonable Reimbursable Expenses as long as such expenses are necessary in the performance of the Services, are eligible and were included in the AFS. Eligible Reimbursable Expenses are defined in Exhibit D ("Reimbursable Expenses"), attached hereto and made a part hereof. Eligible Reimbursable Expenses for subconsultants must be consistent with the Airport Authority's requirements. Notwithstanding anything to the contrary herein, all Reimbursable Expenses of any type or amount must have the prior written approval of the Airport Authority through its Chief Executive Officer or his designee. The Design Professional may not invoice or otherwise seek payment for any

Reimbursable Expenses for which the Design Professional did not receive prior written approval.

- II-16.e. On a monthly basis and promptly following completion of the Services for each Project or Task, the Design Professional shall submit to the Airport Authority (with monthly invoices) a statement of Reimbursable Expenses to be reimbursed for the Project or Task, on a form satisfactory to the Airport Authority, stating in detail the nature of the expenditures and enclosing all actual receipts, invoices and other detail as required or requested by the Airport Authority. It shall be the Design Professional's responsibility to conclusively establish the Reimbursable Expenses, and any Reimbursable Expenses not established and documented to the satisfaction of the Airport Authority shall not be paid.
- II-16.f. Costs incurred by the Design Professional for clerical or other secretarial services, time accounting, or other administrative services, as well as office supplies, are not Reimbursable Expenses. Reimbursable Expenses will be paid only in accordance with Exhibit D. No mark-up costs of any type or amount will be paid.
- II-16.g. Compensation for and in consideration of the Services rendered by the Design Professional for the Airport Authority shall be paid for each Project or Task on the basis of cost plus a fee (profit) on a Not To Exceed or Lump Sum basis, in the sole and absolute discretion of the Airport Authority. The total Compensation shall not exceed the amount established in each AFS. The total Compensation authorized by this Agreement for all Projects and Tasks described in the General Scope of Services, Exhibit A shall not exceed the amount listed in paragraph II-16.a. Such costs for Services required and performed shall be comprised of the following:
1. Direct Labor: The Design Professional's and any subconsultant's actual payroll costs for members of the firm and staff personnel on the basis of salary, on an hourly basis, (without markup for overhead and profit) actually expended for personnel directly utilized. The Design Professional further agrees that the rates set forth in Exhibit C, attached hereto and made a part hereof, will be held firm for the Term of this Agreement. Exhibit C shall

include any proposed increases in the rates over the Term of this Agreement, and the Design Professional's failure to include any proposed increases in Exhibit C shall be construed as fixing and finalizing the rates during the entire Term of this Agreement.

2. Overhead (Indirect Costs): A prorated portion of the actual overhead incurred by the Design Professional and any subconsultant during performance of the work set forth herein. The amount of overhead payment, including payroll overhead, will be calculated as a percentage of all direct labor costs related to staff personnel. Overhead shall include those costs, which because of their incidence for common or joint objectives, are not readily subject to treatment as a direct cost. The percentage rate for overhead applied to direct payroll costs and firm overhead combined, which will be applied to direct labor costs only for progress payments shall be determined as set forth in Exhibit C.
3. Fee for Profit: In addition to the payments for direct and overhead costs as herein before provided, the Airport Authority agrees to pay the Design Professional an amount for profit for Services performed, based upon a percentage of actual direct and overhead costs incurred and as set forth in Exhibit C. It is agreed and understood that such amount will constitute full compensation to the Design Professional for profit and may vary because of any differences between that estimated cost and the actual cost for Services performed. In the event this Agreement is terminated, payment of a fee for profit shall be in an amount which shall be determined as set forth in Exhibit C, multiplied by actual direct and overhead cost incurred to date of termination less previously paid profit. Notwithstanding anything to the contrary herein, the Design Professional shall not be entitled to any lost profits for any Work or any Services which the Design Professional did not perform.
4. Reimbursable Expenses: As set forth in Exhibit D, attached hereto and made a part hereof, eligible Reimbursable Expenses for materials, and services, other than salaries, as may be required hereunder but which are not normally provided as a part of the overhead of the Design Professional or its subconsultant(s). Reimbursable Expenses shall be based on actual costs of the Design Professional or its subconsultant(s), as stated

in Exhibit D and/or in accordance with the AFS and shall not include any mark-up of any type or amount. All Reimbursable Expenses shall be itemized and certified as paid to specifically named firms or individuals. The Design Professional further agrees that the rates set forth in Exhibit D, attached hereto and made a part hereof, will apply for the Term of this Agreement. If the Projects, Tasks, Work and/Services are funded (in whole or in part) with federal funds, the applicable federal rules, regulations and restrictions regarding Reimbursable Expenses shall apply and the Design Professional agrees to be bound to the same notwithstanding any other provision of this Agreement.

5. Subconsultants: As set forth in Exhibit C, costs incurred by the Design Professional for services procured from subconsultants pursuant to its provision of the required Services. Subconsultant invoices, must be submitted with the Design Professional's monthly invoice and shall not include any mark-up of any type or amount. If subconsultant costs are based on an all-inclusive hourly billable rate, that rate shall be a total rate, on an hourly basis, and include but not limited to all payroll costs of the member of the subconsultant, markup for overhead, profit, and materials. The Design Professional further agrees that the rates set forth in Exhibit C, attached hereto and made a part hereof, shall apply for the Term of this Agreement. Upon receipt of payment from the Airport Authority, the Design Professional shall immediately pay all debts due on the Project, including debts arising from or related to the Services and/or arising from the Work.

II-17 Payment Schedule

Payments to the Design Professional may be made separately for each Project and Task or as a single payment for all Projects and Tasks in accordance with the following procedures:

- II-17.a. Monthly progress payments shall be made for amounts earned to date, up to the authorized Compensation amount, which shall be based on the Services which has been completed to date of invoice, as determined by the Airport Authority in its sole and absolute discretion. Documented Reimbursable Expenses also will be included.

- II-17.b. Unless specifically waived by the Airport Authority in an AFS, five percent (5%) of all Compensation, sums and/or amounts otherwise due to the Design Professional shall be retained with each invoice to a maximum retained amount equal to five percent (5%) of the total amount of the Compensation and/or the Services included in the AFS. Retainage may be reduced or returned at any time upon written request from the Design Professional once reviewed and approved by the Airport Authority's Chief Executive Officer or his designee. No retainage release shall be paid until the Design Professional's request and the Airport Authority's Chief Executive Officer or his designee has approved such payment. The decision to reduce or release retainage is within the sole and absolute discretion of the Airport Authority. The Airport Authority's decision to withhold retainage is in addition to any other right the Airport Authority has to withhold Compensation and/or monies otherwise claimed due and owing under this Agreement.
- II-17.c. Final invoicing for each Project or Task under this Agreement shall be submitted in a timely manner but not later than ninety (90) days after completion of Services for a Project or Task. Invoices submitted later than one hundred twenty (120) days after completion of Services for a Project or Task will not be paid, and the Design Professional hereby waives any and all claims and liabilities for invoices which it fails to submit as required herein. The Airport Authority will make final payment within three (3) months of the Airport Authority's determination of all undisputed amounts due and owing.
- II-17.d. If this Agreement or the Work authorized pursuant to any AFS, is terminated before properly completed, the Airport Authority shall pay the Design Professional for authorized Services which have been completed up to the time of termination as determined by the Airport Authority. In no case shall the Compensation paid to the Design Professional for Services, for any Project or Task, exceed the amount the Design Professional would receive had the Services, for the terminated Project or Task portion, been completed. No amounts shall be allowed for anticipated profits for Services that are not performed.

II-18 Invoicing Procedures

The Design Professional shall submit invoices for each Project/Task authorized by this Agreement to the Airport Authority, as hereinafter set forth in Section II-18. Invoices shall be sent via email to AP@craa.com and addressed as follows:

Accounts Payable
Capital Region Airport Authority
4100 Capital City Blvd
Lansing, Michigan 48906

Electronic copies of all invoices shall also be submitted to the Airport Authority's Division or Department as requested.

All invoices shall contain the following information:

1. Approved Contract Number for this Agreement.
2. Appropriate Project/Task number and name for each task.
3. Original AFS amount.
4. Revised AFS amount (if applicable).
5. Amendment which modify this Agreement and change the Scope of Services to be provided (if applicable).
6. Total amounts paid-to-date for the Project or Task, the percentage of Services completed and the percentage of Services amount paid.
7. Amount being requested by the current invoice and percentage of Work complete.
8. Retainage Amount being requested (if applicable).
9. All supporting information and back-up data to substantiate current invoiced amounts for the Project or Task, including hours spent by each individual, invoices/receipts for all eligible Reimbursable Expenses, invoices for all subconsultants including back-up and authorizations, if applicable.
10. Sworn statement from the Design Professional attesting to subconsultant's contract amount, current amount invoiced, amount invoiced to date, amount paid to date, and percentage of work complete for the Project or Task; and provider waivers of bond claims from itself and subconsultants.
11. Monthly Report per Section II-6.

II-19 Accounting Practices

II-19.a. The Design Professional must follow standard accounting practices for a "not-to-exceed" or lump sum contract agreement, as well as accounting practices and document retention

procedures required by the Department of Transportation Title 49, CFR Part 21. The Design Professional shall permit a representative of the Airport Authority or the Federal Aviation Administration to inspect its Project books and records at any time. Such records are to be kept available for six (6) years from the date of the final payment for Services performed pursuant to this Agreement.

II-19.b. The Airport Authority and the Federal Aviation Administration shall have the right to audit the Design Professional's records pertaining to the Services performed pursuant to this Agreement at any time. The Airport Authority's audit rights include, but are not limited to, inspecting records to verify personnel hours (by payroll classification, billing rate or direct hours) spent on the projects, DBE participation activities, all invoices for Reimbursable Expenses (whether by the Design Professional or any subconsultants) and overhead rates and charges.

II-19.c. The Design Professional shall maintain an acceptable cost accounting system. The Design Professional agrees to provide the Airport Authority, 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 Construction Professional which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Design Professional agrees to maintain all books, records and reports required under this Agreement for a period of not less than six (6) years after final payment is made and all pending matters are closed.

II-20 Responsibility for Loss or Damage of Documents

During the performance of the Services, the Design Professional shall be responsible for any loss or damage to all Project documents, hereinafter enumerated as belonging to the Airport Authority while they are in the Design Professional's possession. Restoration of lost or damaged documents shall be at the Design Professional's sole cost and expense.

II-21 Changes

- II-21.a. The Airport Authority may, at any time, by Amendment, or by issuance of a Revised AFS, make changes in the Services to be performed by the Design Professional. Where changes are provided by Amendment, any increase or decrease in the Agreement amount of agreed Compensation or the Term of this Agreement shall be provided in the Amendment. Where Additional Services are authorized by Amendment, adjustments in the amount of agreed Compensation shall be made only if the directed change in the scope of Services cannot be performed within the amount of agreed Compensation. The Design Professional shall not perform any Work it believes to involve a material change in scope from those Services previously authorized by this Agreement without first obtaining the prior written Amendment authorizing such change. The Design Professional shall not perform any Work it believes to involve a material change in scope from those Services previously authorized by an AFS without first obtaining a written Revised AFS authorizing such change. The scope of Work authorized by an AFS, which are within the scope of Services authorized by the General Scope of Services Agreement (Exhibit A) and therefore approved by the Airport Authority by this Agreement, may be modified by a Revised AFS. In the event the Revised AFS does not provide for an adjustment of Compensation or time for performance, the Design Professional shall submit in writing a claim for determination of any change in Compensation or time for performance within fifteen (15) calendar days of receipt of the Revised AFS. Failure to timely submit the claim shall be deemed a waiver of the right to any change in Compensation or time for performance as a result of the Revised AFS. The results of the claim shall not exceed the unit prices and fee percentage provided in Exhibit C and Exhibit D.
- II-21.b. The Airport Authority, acting through its Chief Executive Officer or his designee may modify any previously issued AFS by issuance of a Revised AFS as provided by paragraph I-3.q.
- II-21.c. The Design Professional shall provide written notice to the Airport Authority within five (5) calendar days of any material change in its operation, ownership or financial condition. Material changes include, but are not limited to:
1. Reduction or change in staffing assigned to the Agreement.

2. Decrease in, or cancellation of, any insurance coverage.
3. Delinquent payment, or nonpayment, of any tax obligations.
4. Delinquent payment, or nonpayment, of any payroll obligations.
5. Delinquent funding, or non-funding, of any pension or profit sharing plans.
6. Delinquent payment, or nonpayment, of any subconsultants.
7. Termination of, or changes in, any subconsultants.
8. Transfer, sell, assign or delegate to an entity other than the Design Professional, of ownership or administrative services

II-22 Claims Due to Changes or Delays

- II-22.a. No charges or claims for damages shall be made by the Design Professional for delays or hindrances from any cause whatsoever during the progress of any portions of the Services specified in this Agreement, except as hereinafter provided under Section II-22 "Changes".
- II-22.b. In case of an unreasonable delay on the part of the Airport Authority in providing to the Design Professional, either the necessary information or approval to proceed with the Services, resulting, through no fault of the Design Professional, in the Design Professional having to perform its Work under changed conditions not contemplated, the Airport Authority will consider supplemental compensation limited to increased costs incurred as a direct result of such delays. Any claim for supplemental compensation must be submitted to the Airport Authority in writing and within five (5) calendar days of first discovery of a condition warranting a delay, and accompanied by detailed and substantiating data. Authorization of such supplemental compensation will be made by issuance of a Revised AFS or by a Amendment to this Agreement as determined by the Airport Authority. In lieu of authorizing additional compensation, the Airport Authority may exercise its sole and absolute discretion and simply authorize additional time to perform the Services and Work.
- II-22.c. When delays are caused by circumstances or conditions beyond the control of the Design Professional, the Design Professional shall notify the Airport Authority within fifteen (15) calendar days of such circumstances or conditions at which time the Design Professional may

be granted an extension of time for such reasonable period as may be mutually agreed upon between the Parties.

II-23 Conditions for Completion/Termination of Agreement

- II-23.a. The Airport Authority may, by written notice to the Design Professional, terminate this Agreement in whole or in part at any time, either for the Airport Authority's convenience or because of the failure of the Design Professional to fulfill its obligations under the Agreement. Upon receipt of such notice, the Design Professional shall: (1) Immediately discontinue all Services (unless the notice directs otherwise), and (2) deliver to the Airport Authority, within five (5) calendar days, all data, Instruments of Service, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the Design Professional in performing this Agreement whether completed or in process.
- II-23.b. If the termination is for the convenience of the Airport Authority, the Design Professional shall be paid for the Services performed up to the date of termination, but no amount shall be allowed for anticipated profit on unperformed Services. The Design Professional hereby waives any and all claims for lost profits and consequential damages of any type or amount arising out of or related to the Airport Authority's termination of this Agreement. Should a termination for cause by the Airport Authority later be determined to be invalid, such termination for cause shall be automatically converted to and treated as a termination for convenience.
- II-23.c. If the termination is due to the failure of the Design Professional to fulfill obligations undertaken pursuant to the Agreement for any Project/Task, the Airport Authority may take over the Services and prosecute the same to completion through whatever means the Airport Authority chooses. In such event no additional payment shall be due the Design Professional until the Services for the terminated Projects or Tasks have been completed. Once the Services for any terminated Projects or Tasks have been completed, the Design Professional may be paid

the unpaid amounts owed for Services completed prior to termination provided and to the extent the cost incurred by the Airport Authority to complete the Project or Task together with the amounts previously paid to the Design Professional for Services provided for the Project or Task do not exceed the total amount to be paid for the Project or Task as recognized by the AFS or Revised AFS. In the event the total cost incurred by the Airport Authority exceeds the amount authorized for a Project or Task in an AFS or Revised AFS, the Design Professional shall pay the difference to the Airport Authority within ten (10) days of a demand for such payment. In the event the Airport Authority is not successful in terminating the Agreement for cause, it shall be deemed a termination for convenience.

II-23.d. The rights and remedies of the Airport Authority provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement, and in no event shall the rights and remedies set forth herein be a limitation upon the Airport Authority. The Airport Authority and Design Professional agree that any violation or breach of the terms of this Agreement on the part of the Design Professional, or any subcontractor or subconsultant of the Design Professional, may result in the suspension or termination of this Agreement.

II-23.e. The Design Professional may only terminate this Agreement after giving the Airport Authority thirty (30) calendar days written notice for any of the following reasons that the Design Professional has notified the Airport Authority of, in writing, and which have not been remedied by the Airport Authority within sixty (60) calendar days of receipt of such written notice: (a) material breach by the Airport Authority of any material term of this Agreement; (b) material changes in the condition under which this Agreement was entered and the failure of the Parties hereto to reach accord on Compensation for any Additional Services required because of such material changes.

II-24 Independent Contractor Relationship

The Airport Authority and the Design Professional acknowledge and agree that the Design Professional is an independent contractor, not an employee of the Airport Authority, and that the Design Professional shall have no authority to bind the Airport Authority or otherwise incur liability on behalf of

the Airport Authority. The Airport Authority shall have no obligation whatsoever to provide any employee benefits or privileges of any kind or nature to the Design Professional, including, without limitation, insurance benefits or pension benefits.

Further, the Design Professional agrees that any and all taxes imposed, assessed or levied as a result of this Agreement or the Compensation shall be paid by the Design Professional, or if paid by the Airport Authority, the Design Professional shall reimburse the Airport Authority upon demand.

II-25 Subconsultants

The Design Professional warrants that any subconsultant assigned to the performance of the Services are licensed, qualified and authorized to perform Services under the state and local laws and governing professional association rules where the employee is employed.

II-26 Right to Act as a Design Professional

The Design Professional hereby represents and warrants that it: (1) is not subject to any restrictions whatsoever which would prevent it from entering into or carrying out the provisions of this Agreement; (2) possesses all licenses, permits, approvals and other certificates necessary and required for performing the Services pursuant to this Agreement; (3) possesses the proper skill, training, experience and background so as to be able to perform this Agreement in a competent and professional manner; and (4) has full authority to enter into this Agreement and consummate the transactions contemplated hereby. The Design Professional warrants that the Services shall be consistent with the Standard of Care.

II-27 Confidentiality

The Design Professional agrees that any information the Design Professional receives or reviews concerning the Airport Authority or the Airports, including, but not limited to, any information concerning the Airport Authority or Airports' past, present and future research, development, operations and business activities, and any other information or material proprietary to the Airport Authority of which the Design Professional may obtain knowledge or access from the Airport Authority during the Design Professional's performance hereunder (hereinafter "Confidential Information") is proprietary and confidential to the Airport Authority. The Design Professional agrees, on behalf of itself and all of its agents, to hold in

confidence and not to directly or indirectly reveal, report, publish, disclose or transfer any of the Confidential Information to any person or entity, or utilize any of the Confidential Information for any purpose, except as may be agreed in writing in advance between the Airport Authority and the Design Professional. Prior to disclosure of Confidential Information to any of its employees or other authorized persons or subconsultants, the Design Professional agrees to obtain an appropriate agreement, containing all of the elements set forth herein, from those persons or firms to whom such information is disclosed or who otherwise gain access to such information to maintain the confidentiality of Confidential Information. The Design Professional further agrees to indemnify the Airport Authority against any and all liability, loss, cost, legal or other professional fees resulting from, or arising in connection with, unauthorized use or disclosure of Confidential Information by the Design Professional, its employees or any other authorized person to whom the Design Professional has disclosed Confidential Information.

The Design Professional and the Airport Authority from time to time will have access to each other's digital system both as data owners and data vendors and each shall take precautions to protect the privacy of the data in those records and the corresponding liability that could flow from any cyber breach. The Design Professional shall submit its data protection protocol to the Airport Authority and the Construction Professional before starting services. The Design Professional shall include insurance for cyber liability as required in this Agreement and the Airport Authority may have its own policy of cyber liability.

II-28 Outside QA/QC Review

II-28.a. Throughout the performance of the Services, great emphasis will be placed on the Design Professional's 'in house' quality assurance/quality control ("QA/QC") review process and procedure. The Design Professional represents that it is an expert in the relevant design fields and as such will provide a complete, high quality, fully coordinated set of design and construction documents. When applicable, in order to ensure the quality of the documents, the Airport Authority may hire an outside company to "peer review" the final documents before such are issued for bidding. This peer review is not intended to replace the Design Professional's internal QA/QC review. The Design Professional shall address all of the Airport

Authority's inquiries prior to proceeding with final design documents. The peer review is intended to pick up small and/or minor discrepancies or errors in the documents. The Design Professional remains fully responsible to provide the Airport Authority with a complete, high quality and fully coordinated set of documents in compliance with the Standard of Care. Any "peer review" of the Design Professional's work product shall be for the sole benefit of the Airport Authority and shall not release the Design Professional from liability resulting from the failure of its Services and work product to comply with the Standard of Care.

- II-28.b. At no additional cost to the Airport Authority and on a timely basis, it shall be the Design Professional's responsibility to correct any and all errors, omissions or missed coordination discovered by the peer review before any Project is bid.
- II-28.c. In the event that a large number of minor errors or any major errors, omissions or missed coordination items are discovered by the peer review, the Design Professional will be deemed to have failed to comply with the Standard of Care. In such event, the Design Professional shall correct all errors, omissions and discrepancies discovered by peer review and reimburse the Airport Authority for any and all actual costs incurred by the Airport Authority as a result of the large number of minor errors or major errors.

II-29 Amendment Provisions

- II-29.a. The Airport Authority may consider it in its best interest to change, modify or extend a term or condition of this Agreement or the Airport Authority may request the Design Professional to perform Additional Services outside the General Scope of Services (Exhibit A). Any such change, extension or modification of the General Scope of Services (Exhibit A), which is mutually agreed upon by the Airport Authority and the Design Professional, shall be incorporated in an Amendment.
- II-29.b. No Amendment to this Agreement shall be effective and binding upon the Parties, unless it expressly makes reference to this Agreement, is in writing, is signed and acknowledged by duly authorized representatives of the Parties hereto, which, as to the Airport Authority requires the approval of the Board.

II-30 Entire Agreement

This Agreement contains the entire agreement between the Design Professional and the Airport Authority with respect to the Services and Projects/Tasks described herein and all other subject matter of this Agreement. All prior agreements and understandings, if any, are hereby superseded. The recitals stated above are incorporated into this Agreement by reference as if fully set forth herein.

II-31 Amendment Waiver

No provision of this Agreement may be modified, waived, terminated or amended except by a written instrument executed by authorized representatives of the Parties hereto. No waiver of a breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or other provisions hereof.

II-32 Notices

II-32.a. All notices including but not limited to, consents, approvals, requests, demands and other communications (herein collectively called "Notices") required or permitted under this Agreement shall be given in writing, by email for which service shall be one day thereafter, or with a deposit in the U.S. Postal Service for which service shall be one day thereafter, or overnight mail or any other overnight delivery service:

If to the Design Professional:

[Insert Title, Business and Address]

If to the Airport Authority:

President & CEO
Capital Region Airport Authority
4100 Capital City Blvd
Lansing, Michigan 48906

II-32.b. Unless otherwise expressly stated herein, all Notices shall be deemed given on the day of mailing. Either Party to this Agreement may change its address for the receipt of Notices at

any time by giving notice thereof to the other as herein provided. An authorized representative of such Party must sign any Notice given by a Party hereunder.

II-32.c. Notwithstanding the requirement above as to the use of first-class mail, termination notices, change of address notices, or other notices of a legal nature, shall be sent by registered or certified mail, postage prepaid, return receipt requested.

II-32.d. All notices from the Design Professional to the Airport Authority shall be numbered sequentially.

II-33 Legal Recourse

The rights and remedies set forth herein are not exclusive and are in addition to any of the rights or remedies provided by law or equity. This Agreement, and all actions arising hereunder, shall be governed by, subject to, and construed according to the law of the State of Michigan. The Design Professional agrees that service of process at the address and in the manner specified in this Agreement will be sufficient to put the Design Professional on notice. The Design Professional also agrees it will not commence any action against the Airport Authority because of any matter whatsoever arising out of or relating to this validity, construction, interpretation and enforcement of this Agreement, in any courts other than those in the County of Ingham, State of Michigan unless original jurisdiction can be had in the Michigan Court of Appeals or the Michigan Supreme Court.

II-34 Project Schedule

The schedule for the provision of Services required by this Agreement shall be as negotiated and established in the AFS or as otherwise established by the Airport Authority in the Project/Task Schedule.

II-35 Severability/Construction

If any provision of this Agreement is prohibited by law or held to be invalid, illegal, or unenforceable, the remaining provisions hereof shall not be affected, and this Agreement shall continue in full force and effect as if such prohibited, illegal or invalid provision had never constituted a part hereof, with this Agreement being enforced to the fullest extent possible.

This Agreement shall not be construed against the Party preparing it, but shall be construed as if both Parties jointly prepared and negotiated the Agreement. In the event of any uncertainty or ambiguity the Agreement shall not be interpreted more favorably as to any Party.

II-36 Conflicts

During the Term of this Agreement, the Design Professional shall not represent, advise, give advice to or otherwise consult with any person, company, partnership or other entity with respect to any matters relating to the business of the Airport Authority, when such matter may involve a conflict of interest between the Design Professional and the Airport Authority, unless an officer of the Airport Authority has consented in writing to such representation, advise or consultation. By execution of this Agreement, the Design Professional represents that no such conflict presently exists.

II-37 Waiver of Default

No waiver by the Parties hereto of any default or breach of any term, condition, or covenant of this Agreement will be deemed to be a waiver of any subsequent default or breach of the same or of any other term, condition, or covenant contained herein.

II-38 Federal Government Agreements

This Agreement is subordinate to the provisions of any existing or future agreements between the Airport Authority and the United States of America relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

II-39 National Emergency

All provisions of this Agreement are subordinate to the right of the United States of America to lease or otherwise assume control of the Airport, or any part thereof, during time of war or national emergency, for military use, and any provisions of this Agreement inconsistent with the provisions of such Agreement with the United States of America will be suspended thereby.

II-40 Successors and Assignment

The terms, conditions, and covenants contained in this Agreement apply and inure to the benefit of, and are binding upon the Parties hereto and their respective successors in interest and legal representatives, except as otherwise herein expressly provided. All rights, powers, privileges, immunities and duties of the Airport Authority under this Agreement including, but not limited to, any notices required or permitted to be delivered by the Airport Authority to the Design Professional hereunder may, at the Airport Authority's option, be exercised or performed by the Airport Authority's agent or attorney, including but not limited to its Chief Executive Officer. The Design Professional may not assign its rights, interests or obligations under this Agreement without the prior and express written consent of the Airport Authority. The Design Professional agrees the Work and Services are to be furnished to the Airport Authority are of a unique and specialized character, and the Airport Authority may otherwise object to or reject any proposed assignment as the Airport Authority deems fit.

ARTICLE III
COVENANTS/WARRANTIES/CERTIFICATIONS/
RESOLUTION/ASSURANCES

III-1 Corporate Authority

The Design Professional represents and certifies that the person signing this Agreement on behalf of the Design Professional is fully authorized to execute and commit the Design Professional to the conditions, obligations, stipulations and undertakings contained in this Agreement, and that all necessary corporate approvals have been obtained prior to execution of this Agreement.

III-2 Indemnification

The Design Professional shall hold harmless and indemnify the Airport Authority, its subsidiaries, assigns, officers, directors, and employees from and against any and all liability, losses, claims, potential claims, damages, penalties, fines, demands, actions, causes of action, actual attorney fees, costs, and expenses (including expert witness fees), and interest in lawsuits, arbitration, administrative proceedings, or judgments, regardless of legal theory, from whatever source, and by whomsoever brought without regard to a third-party claim in any way related to the Design Professional's performance, lack of performance, services, breach of this Agreement, or any negligent act, error, omission, willful misconduct,

or intentional act, including Design Professional's subconsultants, agents, suppliers, employees, or any person or organization which the Design Professional controls or is liable, except for the negligence or breach of contract of the Airport Authority.

If the claims against any person or entity indemnified in this section by an employee of the Design Professional, its agents, or subconsultants, or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under this section shall not be limited the limitation of the amount or type of damages, compensation or benefits payable by or for the Design Professional, its agents, subconsultants, and others under workers' compensation acts, disability benefit acts, or other employee benefit acts.

The Design Professional will not be liable hereunder for any injury, death, damage or loss to the extent caused by the Airport Authority's primary negligence or breach of contract, however the Design Professional shall indemnify and defend the Airport Authority until such time as a Court or Arbitrator (whatever the case may be) conclusively determines the Airport Authority's negligence and assigns a percentage of fault (if any) to the Airport Authority. Thereafter, the Design Professional's indemnity obligations shall be proportional in accordance with the percentage of fault determined by the Court or Arbitrator.

This indemnity and hold harmless section survives delivery and acceptance of the Services and the termination and/or expiration of this Agreement.

III-3 Insurance and Safety Requirements

III-3.a. Insurance: Prior to commencement of the Services, the Design Professional at its own expense and in its own name with the Airport Authority and the County of Ingham, Michigan as additional insureds for commercial general (including products and completed operations coverage) and automobile liability coverages) shall purchase and maintain during the Term of the Agreement such insurance as will protect the Design Professional from claims, demands and lawsuits arising out of the Work and Services described in this Agreement and performed by the Design Professional.

In order to determine financial strength and reputation of insurance carriers, all companies providing the coverage required shall be licensed or approved by the Insurance Bureau of the State of Michigan and shall have a financial rating no lower than XI and a policy holder's service rating no lower than (A) as listed in A.M. Best's Key Rating Guide, current edition or interim report. Companies with rating lower than (A) or XI will be acceptable only upon written consent of the Airport Authority.

Nothing contained in these insurance requirements is to be construed as limiting the extent of the Design Professionals responsibility for payment of damages resulting from the Services provided pursuant to this Agreement. The Design Professional shall advise all insurance companies to familiarize themselves with the conditions and provisions of this Agreement related to insurance and indemnification.

If the Airport Authority shall determine that the insurance requirements set forth in this Agreement are no longer sufficient to protect the Airport Authority, the Airport Authority may require the Design Professional to obtain additional insurance. The Airport Authority and the Design Professional shall agree upon the price or sum for this additional insurance which shall not be greater than the price that the Design Professional pays for the aforesaid additional insurance.

The insurance shall provide that the inclusion of more than one incorporation, person, organization, firm or entity as a named insured or an additional named insured in the policy shall not in any way affect the rights of any such corporation, person, organization, firm or entity either as respects any claims, demand, suit or judgment made or brought by or in favor of any other named insured or additional named insured, or by, or in favor of any other of any employee of such other named insured or additional named insured. This policy shall insure each such corporation, person, firm or entity in the same manner as though a separate policy had been issued to each; but nothing herein contained shall operate to increase the insurance company's or insurance companies' liability as set forth elsewhere in this policy beyond the amount or

amounts for which the insurance company or insurance companies would have been liable if only one person or interest had been named as insured.

The insurance shall consist of:

Worker's Compensation Insurance including Employer's Liability to cover employee injuries or disease compensative under the worker's compensation Statutes of the State of Michigan or the State in which a particular employee is employed; liability benefit laws, if any; or Federal compensation acts such as U.S. Longshoremen or Harbor Workers, Maritime Employment, or Railroad Compensation Act(s), if applicable. Self insurance plans approved by the regulator authorities in the state in which work on this project is performed and the State of Michigan are acceptable.

An occurrence form Commercial General Liability policy (New ISO Designation) to cover bodily injury to persons other than employees and for damage to tangible property, including loss of use thereof plus appropriate endorsements to protect the Airport Authority against claims, demands and lawsuits from employees of the Design Professional and subconsultants, including but not limited to the following exposures:

1. All premises and operations.
2. Explosion, collapse and underground damage if the exposure exists.
3. Contractor's Protective coverage for independent contractor or subcontractors, if any, employed by the Design Professional.
4. Broad Form Blanket, contractual liability for the obligations assumed in the Indemnification or Hold Harmless agreement and the Insurance section found herein.
5. The usual Personal Injury Liability Endorsement.
6. Products and Completed Operations coverage if the exposure exists. This coverage shall extend through the contract guarantee period.
7. Broad Form Property Damage.
8. Cross liability endorsement.

9. Amendment - Aggregate limits of insurance (per project).
10. Pollution liability.
11. Cyber liability.

A comprehensive Automobile Liability policy, in accordance with the laws of the State of Michigan, which includes residual liability for bodily injury and property damage arising out of the ownership, maintenance or use of any motor vehicle, including owned, non-owned and hired vehicles.

Architects and Engineers Professional Liability Insurance providing coverage for negligent acts, errors, or omissions committed or alleged to have been committed by the Design Professional including any alleged failure to comply with the Standard of Care. This insurance shall extend coverage to loss of interest, earnings, profit, use and operations interruption, and other special indirect and consequential damages.

Umbrella or Excess Liability: The Design Professional is granted the option of arranging coverage under a single policy for the full limit required or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability policy equal to the total limit(s) requested. Umbrella or Excess policy wording shall be at least as broad as the primary or underlying policy(ies) and may apply both to the Design Professional's general liability and to its automobile liability insurance, shall be written on an occurrence basis.

Pollution Liability.

1. If approved by the Airport Authority, this policy may be combined with the Professional Liability coverage.
2. Required for those who conduct work involving disturbance of surface, environmental remediation activities or design environmental remediation or containment services on or for Airport properties.
3. Policy must provide coverage for bodily injury, property damage, or cleanup resulting from pollution conditions including mold or other similar fungi arising out of or exacerbated by the work.

4. No exclusion or limitation for legionella or mold or lead in the policy.
5. Coverage for owned and non-owned disposal sites.
6. Transportation coverage for loading and unloading.
7. Deductible or self-insured retention or no more than \$ 100,000.
8. The policy shall be maintained during the term of the development of the Project and for a period of at least six (6) years after Completion of the Project.
9. If written on a claims made basis, policy shall not have a retroactive date or, if a retroactive date is included, such retroactive date shall be prior to the commencement date of Agreement.

The required limits of liability for insurance coverages shall not be less than specified herein unless specified otherwise on the "Special Conditions".

Worker's Compensation	Statutory
Employer's Liability	\$1,000,000
Commercial General Liability	
Bodily Injury - each occurrence.....	\$5,000,000
Bodily Injury - aggregate	\$5,000,000
Property Damage - each occurrence.....	\$5,000,000
Property Damage - aggregate.....	\$5,000,000
or combined single limit per occurrence	\$5,000,000
Cyber Liability - each occurrence.....	\$3,000,000
Cyber Liability - aggregate	\$3,000,000
Products/Completed Operation - each occurrence	\$5,000,000
Products/Completed Operation - aggregate	\$5,000,000
Comprehensive Automobile Liability	
Bodily Injury	\$5,000,000
Property Damage.....	\$5,000,000
or combined single limit per occurrence	\$5,000,000

Professional Liability	\$5,000,000
Aggregate	\$5,000,000
Umbrella - each occurrence	\$5,000,000
Umbrella - aggregate	\$5,000,000
Pollution - each occurrence	\$5,000,000
Pollution - aggregate	\$5,000,000

Cancellation Notice: Each policy required hereunder must provide for at least thirty (30) calendar days unconditional advance written notice to the Airport Authority prior to any cancellation of the terms of insurance afforded by the policy. In the event of a material change in the terms of insurance afforded by the policy, the Design Professional shall provide thirty (30) calendar days unconditional advance written notice to the Airport Authority of such change.

Proof of Insurance: At the time this Agreement is returned to the Airport Authority for execution, and by the expiration date of any expiring policies, the Design Professional must file with the Contract Compliance Division of the Airport Authority, either a certified copy of each insurance policy required by the Airport Authority in the preceding paragraphs, or a certificate of insurance, as evidence of the Design Professional's compliance with this Section; provided, however, that within thirty (30) calendar days following the written request of the Airport Authority, the Design Professional will replace any insurance certificate with a certified copy of each insurance policy. The Airport Authority reserves the right to request complete copies of policies if deemed necessary to ascertain details of coverage not provided by the certificates. Such policy copies shall be "Original Signed Copies" and so designated. The Certificate of Insurance shall evidence the following coverages for all of those insurance requirements in the preceding paragraphs.

The Design Professional may obtain professional liability insurance on a claims made bases; however, the Design Professional must assure continuity of coverage for at least six (6) years following completion of this Agreement. The Design Professional must extend its current policy for six (6) years or must obtain proper endorsements to a successor policy or policies.

The Design Professional shall be responsible for any bodily injury or property damage due to actions of the Design Professional. This condition shall apply whether the actions of the Design Professional are covered or not covered by insurance. If the Design Professional will be handling, moving or otherwise disturbing anything containing or attached to anything containing hazardous materials, such as asbestos, PCBs or other hazardous materials, the Design Professional shall purchase, or cause to purchase, appropriate insurance protecting the Airport Authority and the Design Professional from this exposure. The limits of this insurance shall be as described previously herein.

Insurance required shall be in force for a period of six (6) years after acceptance by the Airport Authority of the entire completed work, constructed based on the Design Professional's Deliverables and Instruments of Service and shall be written for not less than any limits of liability specified above. The Design Professional has the responsibility of having any subconsultant comply with these insurance requirements, unless released from such responsibility in writing by the Airport Authority. The Airport Authority shall not be unreasonable in releasing the Design Professional from maintaining the maximum limits of liability if the insurance market makes obtaining the maximum limits unreasonably expensive for the Design Professional. The Design Professional must document that the Design Professional has made good faith efforts to secure multi-year policies for all coverages in question if the Design Professional wants to be excused from obtaining the maximum limits required. The Design Professional has the responsibility to maintain concurrence of coverage during the three-year period. Any change in insurance coverage or insurance companies must continue coverage for claims during the Term of this Agreement and all applicable periods thereafter.

The Design Professional will waive any rights of subrogation for personal injury or property damage against the Airport Authority, its employees and agents arising from this Agreement. In the event of any payment by any insurer of the Design Professional, such insurer will not be subrogated to any of the Design Professional rights of recovery therefore against the Airport Authority, its employees and agents. The Design Professional will not execute, nor deliver any

instruments or other documents, nor take any other action to secure any such rights for the Design Professional's insurer(s) against the Airport Authority, its employees and agents.

In addition, the Design Professional waives any rights of recovery it may have against the Airport Authority, its employees and agents for insured losses occurring to any property insured by the Design Professional in accordance with this Agreement.

III-3.b Design Professional Safety Requirements

1. The Design Professional and its subconsultants must be knowledgeable and trained in the safety and health disciplines necessary to identify, avoid, reduce and/or mitigate disturbing hazards and unsafe conditions related to their Services.
2. Identification of hazards, implementation and enforcement of safe work practices for the Services performed by the Design Professional and its subconsultants shall be the responsibility of the Design Professional.
3. The Design Professional and its subconsultant(s) shall comply with the following state and federal regulations as they relate to the Services performed by the Design Professional and its subconsultants:
 - A. Safety and Health Regulations for Construction (Title 29CFR 1926 and 1910);
 - B. Walsh-Healy Public Contracts Act 9, Title 41 CFR Part 50-2-3 and the included rules and regulations contained in the Occupations Safety and Health Standards, National Consensus;
 - C. Standards, and Established Federal Standards (Title 20 CFR, Chapter 5); and
 - D. Michigan Occupational Safety and Health Acts.
4. The Design Professional will be solely and completely responsible for its Services, including the safety of all its persons and property during the performance of the Work. This requirement will apply continuously and not be limited to normal working hours. The Design Professional and its subconsultants shall comply with the safety requirements set forth by the Airport Authority. During construction, the Design Professional and its

subconsultants shall comply with the overall construction safety plan instituted by the Airport Authority and/or the Construction Professional..

5. The Design Professional and subconsultants performing Services on the Project site, where hazard exposure exists, must wear personal protective equipment in conformance with 29 CFR 1926.28, MIOSHA Part 6, and all other applicable codes. All persons must wear approved hard hats, hard-soled safety shoes, long pants, and shirts with sleeves.
6. The Design Professional and its subconsultants shall develop an emergency action plan for any persons performing the Services. This plan is to include medical, fire protection and weather emergencies. All medical or fire related emergencies will be immediately reported to the Airport Authority.
7. Prior to accessing any confined spaces, the Design Professional and its subconsultants shall develop a confined space entry procedure in conformance with MIOSHA R408.10016, and provide a copy of such procedure to the Airport Authority. Testing of the existing atmosphere for excess or deficient oxygen and other gases is required.
8. In accordance with Executive Order 13513 of October 1, 2009 and DOT Order 3902.10, the Design Professional agrees to adopt and enforce a policy that bans texting or text messaging while driving. This policy shall apply to all of Design Professional's employees and subconsultants who perform any Services related to this Agreement. For purposes of this policy, "texting" or "text messaging" means reading from or entering data into any handheld or other electronic device, including but not limited to SMS texting, emailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. For purposes of this policy, "driving" means operating a motor vehicle on a roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign or otherwise. Driving does not include operating a vehicle which has been pulled over off of the roadway, halting in a location where one can safely remain stationary.

The Design Professional's compliance with this Section is a continuing obligation during the Term of this Agreement. If any of the required insurance policies are terminated or canceled during the Term of this Agreement, the Design Professional shall immediately cease operations until such insurance is reinstated.

The Design Professional shall immediately report, in writing, to the Chief Executive Officer, or his designee, all accidents or occurrences which arise out of, or in connection with, its operations hereunder whether or not resulting in death or injury to persons or damage to property, setting forth such details thereof as the Chief Executive Officer, or his designee, may desire. In addition, if death or serious injury or serious damage is caused, such occurrence shall be immediately reported by telephone to one of the aforesaid representatives of the Airport Authority.

In the event any claim is made by any persons against the Design Professional arising out of any such accident or occurrence, the Design Professional shall promptly report such claim in writing to one of the aforementioned representatives of the Airport Authority. In addition, the Design Professional shall promptly furnish to the Chief Executive Officer, or his designee, copies of all reports given to the Design Professional's insurance carrier.

III-4 Solicitations to Secure Agreement

The Design Professional certifies that it has not employed or retained any company or person other than bona fide employees working solely for the Design Professional, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than bona fide employees working solely for the Design Professional, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award, or making of this Agreement. For breach or violation of this warranty, the Airport Authority shall have the right to terminate this Agreement without liability or, at its discretion, to deduct from any Compensation, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

The Design Professional agrees no Federal appropriated funds shall be paid, by or on behalf of the Design Professional, 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 the making of any Federal grant and the amendment or modification of any Federal grant.

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 any Federal grant, the Design Professional shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

III-5 Conflicts of Interest

By execution of this Agreement, the Design Professional certifies that there is no kinship directly or through marriage between the officers and principle beneficiaries of the Design Professional and any Capital Region Airport Authority employee or officer or Board member who may exercise any discretion over the letting, implementation, enforcement or performance review of this Agreement.

III-6 The Design Professional

The Design Professional shall comply with the Airport Authority's badging and security procedures required for the Design Professional's employees and subconsultants to access areas of the Airports.

III-7 Non-Procurement Debarment and Suspension

The Design Professional shall be subject to the Title 49, Part 29 of the Federal Code of Regulations, Government wide Debarment and Suspension (nonprocurement) and Government wide Requirements for Drug-Free Workplace (grants), being 49 C.F.R. Part 29. The Design Professional's execution of this Agreement constitutes its Certification of "Status" in respect to said regulation, and by so certifying, the Design Professional, under penalty of perjury under the laws of the United States, certifies that, the Design Professional or any person associated therewith in the capacity of Airport Authority, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of Federal Funds:

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;

2. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years;
3. Does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against (it/them) by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years; and
4. All parties, businesses, and people hired or working for the Design Professional shall comply with the certifications required in (a) through (c) above.

III-8 Governmental Requirements/Non-Discrimination and Affirmative Action

III-8.a. Non-Discrimination Covenant Pursuant to Requirements of Department of Transportation:

The Design Professional for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, hereby covenants and agrees that: (1) no person on the grounds of race, color, or national origin will be excluded from participation in, denied the benefits of, or will otherwise be subjected to discrimination in the fulfillment of this Agreement; (2) in the design of any improvements on, over, or under such land and the furnishing of services herein, no person on the grounds of race, color, or national origin will be excluded from participation in, denied the benefits, of, or will otherwise be subjected to discrimination; and (3) the Design Professional will use its Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

As pertinent and applicable, during the performance of the Services, the Design Professional, and all parties hired or working for the Design Professional, assignees and successors in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited: (1) Titles VI and VII of the Civil Rights Act (42 U.S.C. §§ 2000d et. seq.) and the United States Department of Justice Regulations (28 C.F.R.

Part 42) issued pursuant to those Titles; (2) The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); (3) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794): (4) 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; (5) The Michigan Civil Rights Act (P.A. 1976 No. 453) and the Persons With Disabilities Civil Rights Act (P.A. 1976(b) No. 220); (6) 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); (7) 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); (8) the 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); (9) 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); (10) 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); (11) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-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; (12)

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); and (13) 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).

III-8.b. State Employment Non-Discrimination Requirements: In accordance with Michigan 1976 Public Act 453 and 1976 Public Act 220, the Design Professional covenants not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, marital status, or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position and to require a similar covenant on the part of any subcontractor employed in the performance of this Agreement. Breach of this covenant may be regarded as a material breach of this Agreement.

III-8.c. The Airport Authority's Non-Discrimination Requirements:

1. The Design Professional must not:
 - A. Refuse to recruit, hire, employ, or promote, bar or discharge from employment an individual, or discriminate against an individual in compensation, terms, conditions or privileges of employment because of religion, race, color, creed, national origin, age, height, weight, marital status, handicap, sex or sexual orientation, of any individual.
 - B. Limit, segregate, or classify an employee or applicant for employment in a way that deprives or tends to deprive any individual of employment opportunities or otherwise adversely affects the employment status of an employee because of

religion, race, color, creed, national origin, age, height, weight, marital status, handicap, sex or sexual orientation.

- C. Print or publish or cause to be printed or published a notice, application, or advertisement relating to employment by the Design Professional indicating a preference, limitation, specification, or discrimination based upon religion, race, color, creed, national origin, age, height, weight, marital status, handicap, sex or sexual orientation.
 - D. Make or use a written or oral inquiry or form of application that elicits or attempts to elicit information concerning the religion, race, color, creed, national origin, age, height, weight, marital status, handicap, sex or sexual orientation of prospective employees.
 - E. Make or keep a record of information described in subparagraph (d) above, or disclose that information.
 - F. Make or use a written or oral inquiry or form of application that expresses a preference, limitation or specification based on religion, race, color, creed, national origin, age, height, weight, marital status, handicap, sex or sexual orientation.
 - G. Discriminate against any employee or applicant for employment, training, education, or apprenticeship connected directly or indirectly with this Agreement with respect to hire, promotion, job assignment, tenure, terms, conditions or privileges of employment because of religion, race, color, creed, national origin, age, height, weight, marital status, handicap, sex or sexual orientation.
2. The Design Professional must notify any subconsultants of the obligations relative to nondiscrimination under this Agreement. The Design Professional must include the provisions of this Section in any subcontract, as well as provide the Airport Authority a copy of any subcontract agreement.

3. Breach of these covenants may be regarded as a material breach of this Agreement.
4. If the Design Professional does not comply with the non-discrimination provisions of this Agreement, the Airport Authority may impose sanctions as it determines to be appropriate, including but not limited to cancellation, termination or suspension of this Agreement, in whole or in part, and the withholding of payments otherwise claimed due and owing.

III-8.d. Airport and Airway Improvement Act of 1982, Section 520:

The Design Professional assures that it will comply with pertinent statutes, Executive orders and such rules as are promulgated to assure 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. This provision obligates the Design Professional or its transferee for the period during which Federal assistance is extended to the airport a program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of the Design Professional, this provision binds the Design Professional from the bid solicitation period through the completion of the construction of the Project. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

III-9 Disadvantaged Business Enterprise (DBE) Participation

The Design Professional hereby agrees, for the Term of the Agreement, to meet the DBE commitment of _____ or in the event that the commitment is not met, to document

adequate good faith efforts the Design Professional makes to meet the commitment, that is, document all necessary and reasonable steps the Design Professional takes to achieve the DBE commitment, including any amendments thereto. The Design Professional shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Design Professional shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this Agreement, as well as all other agreements and contracts arising from or related to this Project. Failure by the Design Professional to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as the Airport Authority deems appropriate.

The Design Professional agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the Design Professional receives from the Airport Authority. The Design Professional agrees further to return retainage payments to each subcontractor within thirty (30) 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 Airport Authority. This clause applies to both DBE and non-DBE subconsultants.

III-10 Trade Restriction Clause

The Design Professional, by submission of an offer and/or execution of any contract, inclusive of this Agreement, certifies that it:

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 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 on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
3. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

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 any person or entity who is unable to certify to the above. If the Design Professional knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Airport Authority cancellation of the contract at no cost to the Government.

Further, the Design Professional agrees that, if awarded an Agreement resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The Design Professional may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The Design Professional shall provide immediate written notice to the Airport Authority if the Design Professional learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the Design Professional if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the Design Professional or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Airport Authority's cancellation of the Agreement or subcontract for default at no cost to the Federal Government.

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 Design Professional is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

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, United States Code, Section 1001.

III-11 Environmental Conditions

The Design Professional agrees that it and any subconsultants, vendors or other persons acting on Design Professional's behalf under the Contract shall comply with Due Care and Continuing Obligation requirements, including any documentation related to those requirements. The Design Professional shall have any subconsultants, vendors or other persons that perform Work under the Contract agree to such compliance pursuant to applicable Michigan and federal laws and regulations.

The Design Professional hereby agrees to waive or release Airport Authority and its Board members, trustees, officers, employees, agents, successors and assignees from any and all claims, demands, suits, losses, liabilities, costs, injuries or responsibilities of any kind or nature, known or unknown, related to or arising from the actual or threatened release of hazardous substances or materials on or from the Property ("Environmental Claims"), except if any actual or threatened release is caused by Airport Authority and its Board members, trustees, officers, employees, agents, successors or assignees. The Design Professional shall have any subconsultants, vendors or other persons that perform Work under the Contract to enter into a comparable waiver and release for the benefit of Airport Authority, its Board members, trustees, officers, employees, agents, successors and assigns.

The Design Professional shall defend, indemnify and hold harmless Airport Authority and its Board members, trustees, officers, employees, agents, successors and assignees from any exacerbation of or exposure to hazardous substances or materials on or from the Property or other Environmental Claims arising from or during the performance of the Work, except to the extent caused by the negligence or willful misconduct of the Airport Authority or its Board members, trustees, officers, employees, agents, successors and assignees. The Design Professional shall have any subconsultants, vendors or other persons that work under the Contract to enter into a comparable agreement for the benefit of Airport Authority, its Board members, trustees, officers, employees, agents, successors and assigns.

This section's provisions, notwithstanding anything to the contrary in the Agreement, shall survive completion of the Work. The Design Professional shall ensure that any agreement required and secured from subconsultants, vendors or other persons pursuant to this section shall acknowledge that the Airport Authority and its board of director, trustees, officers, employees, agents, successors and assignees are intended beneficiaries of any such agreement.

III-12 Miscellaneous Provisions

Contract Interpretation. Should any conflict occur among the Contract Documents or ambiguity of terms and conditions, the interpretation most favorable to the Airport Authority shall control.

The terms and conditions of this Agreement, unless designated otherwise, shall survive any termination of the Agreement.

The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

The Design Professional's authority is expressly limited to its duties set forth in this Agreement. The Design Professional shall have no right or authority to make any contract or otherwise binding promise of any nature whatsoever on behalf of Airport Authority, whether written or oral. Without limiting the generality of the foregoing, Design Professional shall not have the right to terminate any contractors of Airport Authority nor shall Design Professional have the right to bind Airport Authority to any contract or agreement, borrow funds or incur any charge or liability in the name or on behalf of Airport Authority or in respect of which Airport Authority may be liable.

The Design Professional shall perform such visits to the site of the Work only with competent personnel who are experienced in such tasks and reasonably acceptable to the Airport Authority. Any defective designs or specifications furnished by Design Professional will be promptly corrected by Design Professional at no cost to Airport Authority, but the Design Professional shall not be responsible for construction costs. Airport Authority's approval, acceptance, use of or payment for all or any part of Design Professional's services hereunder or of the Project itself shall in no way alter Design Professional's obligations or Airport Authority's rights hereunder.

Design Professional shall be responsible to the Airport Authority for coordination and internal checking of Design Professional's and its agents and subconsultants drawings and for the accuracy of

dimensional and layout information contained therein, as fully as if each drawing were prepared by Design Professional. To the extent consistent with the standard of care set forth in Article 2.2, Design Professional shall be responsible for the completeness and accuracy of all drawings and specifications submitted by or through Design Professional and for their compliance with applicable building regulations (including the building code of the local municipality where the Project is located, requirements with the Bureau of Construction Codes and Fire Safety, requirements of the Bureau of Health, the Americans with Disabilities Act, Accessibility Guidelines, and zoning ordinances), except to the extent expressly and specifically otherwise stated in writing by Design Professional at the time of such submission.

All services provided by the Design Professional hereunder shall be performed in a reasonably prompt manner and shall be in accordance with the professional standards applicable to such services of the type of Project contemplated by this Agreement. The Design Professional will perform all duties and services and make all decisions called for hereunder promptly and without unreasonable delay and will give this Project such priority in its office as is necessary to cause the Design Professional's services hereunder to be timely and properly performed.

In the event that the Design Professional fails to perform its services to meet the various milestone dates of the Project, upon notice from the Airport Authority the Design Professional will use extraordinary efforts to bring the Project back on schedule.

Design Professional will work with the Project Team to develop a Digital Data Protocol Exhibit that establishes the transmission or exchange of Digital Data for this Project. That Exhibit will be referenced into any other agreement for services or construction for this Project.

Prior to the expiration of one year from the date of Substantial Completion, the Design Professional shall, without additional compensation, conduct a meeting with the Airport Authority and Construction Professional to review the facility operations and performance. Any work that needs to be corrected or warranties addressed, Design Professional shall promptly notify the Construction Professional for correction of the same. If there is a design error or matters of responsibility for the Design Professional, the Design Professional shall provide additional services without compensation to

correct the design. The requirements of this paragraph are in addition to any other remedies that the Airport Authority may have against the Design Professional, Construction Professional, or others. The obligations of this paragraph survive the termination of this Agreement.

Force Majeure. Any delay or failure of Design Professional in performing its required obligations hereunder shall be excused if and to the extent such delay or failure is caused by a Force Majeure Event. A "Force Majeure Event" means an event due to any cause or causes beyond the reasonable control of Design Professional and shall include, but not be limited to, acts of God, strike, labor dispute, fire, storm, flood, windstorm, unusually severe weather, sabotage, embargo, terrorism, energy shortage, accidents or delay in transportation, accidents in the handling and rigging of heavy equipment, explosion, riot, declared hostility, war, court injunction or order, delays by acts or orders of any governmental body or changes in laws or government regulations or the interpretations or application thereof or the acts or omissions of the Airport Authority or its other contractors, vendors or suppliers. In the event of a Force Majeure Event, Design Professional shall receive an equitable adjustment extending Design Professional's time for performance for such Services sufficient to overcome the effects of any delay. The equitable adjustment extending the Design Professional's time for performance shall be the Design Professional's sole remedy.

Design Professional may engage consultants and the consultants may engage sub-consultants who shall be subject to the terms and conditions as though they were labeled subcontractors and sub-subcontractors.

Where applicable, the Construction Professional and Design Professional shall participate in a joint meeting with the Airport Authority to resolve disputes prior to mediation or arbitration.

Time is of the essence in the performance of this Agreement.

ARTICLE IV

AGREEMENT EXECUTION

IV-1 Binding Effect of Agreement

Upon execution of this Agreement by the Parties hereto, the same shall become binding on the Parties hereto and their successors and assigns, until such time as all Services contemplated hereunder

is complete, or until such time as this Agreement is terminated by mutual consent of the Parties hereto or otherwise.

The Design Professional acknowledges that it conducts business in Ingham County, Michigan and Clinton County, Michigan and the Agreement was formed in Clinton County, Michigan.

IV-2 Documents Included in Agreement

This Agreement includes this document and all Exhibits some of which may be amended from time to time.

IV-3 Signatures

The Parties hereto have caused this Agreement to be executed on their behalf by their duly authorized officers all as of the day and year first above written.

CAPITAL REGION AIRPORT AUTHORITY

By: _____
Wayne G. Sieloff
President & Chief Executive Officer

**[INSERT NAME OF
DESIGN PROFESSIONAL BUSINESS ENTITY]**

By: _____

Its: _____

LIST OF EXHIBITS

Exhibit A - Scope of Services

Exhibit B - Key Personnel

Exhibit C - Fees

Exhibit D - Reimbursable Expenses

Exhibit E - Invoice Format

Exhibit F - Additional Deliverables

Exhibit G - Airport Authority's Budget

Exhibit H - Airport Authority's Design and Construction Schedule

Exhibit I - Anti-Terrorism Certificate

Exhibit J - Badging and Access Requirements

Exhibit K - Request for Qualifications (RFQ) and RFQ Addendums

EXHIBIT A
SCOPE OF SERVICES

[Insert Scope of Design Professional and Its Subconsultants]

EXHIBIT B

KEY PERSONNEL

[Insert List of Personnel for Design Professional and Its Subconsultants]

EXHIBIT C

FEES

[Insert Direct Labor Rates for each Personnel Classification, Federally Audited Overhead Percentage,
and Profit Percentage for Design Professional and all Subconsultants]

EXHIBIT D

REIMBURSABLE EXPENSES

[Insert Reimbursable Schedule of Design Professional and Its Subconsultants.]

Notes: All Airfare, Lodging, Meals and Incidentals to be in Accordance with the U. S. General Services Administration (GSA). Amount for Rental Car Reimbursement and Private/Corporate Car Mileage, if required, shall be negotiated by Design Professional and the Airport Authority]

EXHIBIT E
INVOICE FORMAT

[Insert Invoice Format required by the Airport Authority]

EXHIBIT F

ADDITIONAL DELIVERABLES

[Insert Additional Deliverables]

EXHIBIT G

AIRPORT AUTHORITY'S BUDGET

[Insert Airport Authority's Program and/or Project(s) Budgets]

EXHIBIT H

AIRPORT AUTHORITY'S PLANNING, DESIGN AND CONSTRUCTION SCHEDULE

[Insert Airport Authority's Planning, Design and Construction Schedule and Milestones]

EXHIBIT I

ANTI-TERRORISM CERTIFICATE

The undersigned hereby certifies that it is not an Iran-linked business. I certify I have the requisite knowledge of the undersigned entity to make this certification under penalties of perjury. I understand that in the event the certification is found to be false it may be grounds for termination or rejection or any bid, proposal or contract.

The provisions as stated above are only effective if Iran is a state sponsor of terror as defined under Section 2 of the Divestment From Terror Act 2008 PA 234, MCL 129.292.

Business Name: _____

Name of Representative of Business: _____

Signature Representative of Business: _____ Date: _____

On this ____ day of _____, 20____, before me came the above person who, being duly sworn, deposes and says that s/he has read the foregoing, the same is true of his/her knowledge, information and belief.

Notary Public

_____ County, Michigan

My Commission Expires: _____

Acting _____ County

EXHIBIT J

BADGING AND ACCESS REQUIREMENTS

[Insert Airport Authority's Badging and Access Requirements]

EXHIBIT K

Request for Qualifications (RFQ) and RFQ Addendums

[Insert Request for Qualifications (RFQ) #19-04 and RFQ Addendums]

33854:00007:4359296-5