

**Form of Agreement for (Construction Professional as Construction
Manager as Advisor)**

**Construction Management and Related Services for
Terminal Modernization Program
at the Capital Region International Airport**

Between

Capital Region Airport Authority

and

[Construction Professional]

Contract No.: 19-04____

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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 Construction Professional Entity]**, a [Type of Entity], with principal offices located at _____ (hereinafter referred to as the “**Construction Professional**”). The Airport Authority and the **Construction 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 1977 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 construction management 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 Construction Professional represents that it possesses the necessary qualifications to perform the construction consulting, construction management and related services required by this Agreement.

WHEREAS, upon notice from the Airport Authority, the Construction Professional shall become the Construction Manager Constructor (CMR) to bid the cost of providing the actual construction from subcontractors, trade contractors, and specific additional licensed contractors.

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 **Construction** Professional to perform and provide services as selected by the Airport Authority including, but not limited to, planning, cost estimating, constructability and phasing analysis, construction management and other consulting and management services required for Projects and/or Tasks at the Capital Region International Airport, to plan and construct the Projects, and for services related to management of the construction of any of the Projects. All of said Work to be provided by the Construction 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 Construction Professional and shall continue to the extent: (i) the Airport Authority retains funds available to pay for the Services; (ii) the **Construction** Professional continues to perform Services to the satisfaction of the Airport Authority; and (iii) the Services assigned to the Construction Professional are completed as required by this Agreement. The Term of this Agreement shall be for a period of six (6) 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, cost estimating, scheduling, permitting, bidding, and award; management of construction project; attendance at any and all meetings and conferences related to the Projects,; quality control testing; project record-keeping; commissioning; close-out services; warranties inspections and performance reviews; and all other related services for the Projects, which shall be generally described

in Exhibit A to this Agreement (the 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 Construction Professional are those described in 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 Construction Professional, notifying the Construction 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 Construction Professional, and no later than fourteen (14) days after the receipt of the same the Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 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 Construction Professional which establishes the deadlines and milestones by which the Construction Professional shall provide services, facility improvements, 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 and to be constructed by the Construction Manager Constructor. If the Estimated Construction Cost is not established in an AFS, the Estimated Construction Cost shall be developed by the Construction 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 Construction 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 provided by the Design Professional to the Airport Authority and the Construction Professional as required by this Agreement and an AFS for a Project or Task.
- I-3.n. The term “Construction Management” shall refer to the services provided by the Construction Professional prior to and 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 contractors and/or subcontractors to confirm conformance with the requirements of the Contract Documents; (ii) the review and evaluation of the Contractor’s Applications for Payment; (iii) the observation, inspection and Quality Assurance review of the contractors’ and/or subcontractors’ Work; and (iv) the evaluation and recommendation of Substantial Completion and Final Completion. All Construction Management Services provided by the Construction Professional shall be subject to terms and provisions of this Agreement, an

amendment to this Agreement, a subsequent 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 Construction 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 or subsequent Agreement, and prior to the Construction Professional performing any Additional Services. Notwithstanding anything to the contrary herein, the Construction 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 Construction Professional performs Additional Services without first obtaining the prior written approval of the Airport Authority, the Construction 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 Construction 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 Construction 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 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 Construction Professional. All Services provided by the Construction 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 service provided by the Construction 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 Construction 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 Construction Professional of its responsibility for all Services provided pursuant to this Agreement. The Construction Professional represents that it and each of its subconsultants and/or subcontractors 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 Construction 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 Construction 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 Construction 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 Construction Professional will result in the construction of a Project (in whole or in part), the Construction 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 Construction Professional shall advise the Design Professional of modifications and other Services necessary to yield a award of a construction contract for an amount and all-inclusive total construction costs that does not exceed the Estimated Construction Cost. .
- I-4.b. The Construction 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 Construction Professional is unable to construct a usable project within these limitations. Upon receipt of such information, the Airport Authority will review the

Construction 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 Construction Professional shall proceed following the written direction of the Airport Authority.

I-5 Construction Professional Administrative Duties and Obligations

I-5.a. Construction Professional Administrative Duties

- .i The Construction Professional shall provide administrative, management and related services as required to coordinate the Work of the Design Professional with the Airport Authority objectives for cost, time and quality.
- .ii The Construction Professional with the Design 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.
- .iii The Construction Professional with the Design Professional shall establish procedures for coordination among the Airport Authority, or various contractors, and implement such procedures.
- .iv Consistent with the Project Schedule issued with the bidding documents, the Construction Professional in cooperation with the Design Professional shall update the Project, 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 Construction Professional with the Design Professional shall include the Airport Authority's occupancy requirements showing portions of the Project having occupancy priority.
- .v The Construction Professional in cooperation with the Design Professional shall develop and implement a system for the preparation, review and processing of Change Orders.

- .vi The Construction Professional in coordination with the Design 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.
- .vii If required, the Construction Professional in cooperation with the Design 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.
- .viii 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.
- .ix Any provision hereof to the contrary notwithstanding, the Construction 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.
- .x The Construction Professional shall directly interact with all regulatory agencies as appropriate and required to coordinate construction activities and processes.

I-5.b. Construction Professional Obligations.

- .i At the commencement of each separate project within the overall project, the Construction Professional shall continually examine the site and study and compare the Contract Documents with the actual conditions and report any observations, conflicts, errors, ambiguities, inconsistencies, discrepancies, omissions or non-compliance with building codes or other applicable laws that are discovered to the Design Professional and the Airport Authority for resolution.
- .ii The Construction Professional shall perform its services in accordance with good industry practices and the standards established by the requirements of the Contract Documents.

- .iii Meet with Airport Authority staff and governing agencies, conduct design review conferences to obtain Airport Authority design comments, and resolve matters.
- .iv Prepare final operational and maintenance cost projections.
- .v Prepare construction safety phasing plans and Federal Aviation Administration (FAA) Form 7460-1 for the Airport Authority to submit to the FAA.
- .vi Assist the Airport Authority with the development of a staging and phasing plan to relocate functions within the terminal. Please note that the Operations/Security and Emergency Operations Center are critical functions that must have redundancy in staging, phasing and equipment to ensure that their operation continues 24/7 during the relocation.
- .vii Prepare reports and make presentations.
- .viii The Construction Professional shall give the Design Professional timely notice of any additional design drawings, specifications, or instructions required to define the Work in greater detail, or to permit the proper progress of the Work, and the Design Professional shall respond within a reasonable time thereafter. The Construction Professional shall use a Request For Information document provided by the Airport Authority.
- .ix The Airport Authority may engage separate contractors, professionals, and service providers to perform work as a part of or related to the Project for which the Construction Professional shall cooperate coordinate with any such separate contractors, as provided in this section and in the General Provisions and Supplemental Terms and Conditions where appropriate. Upon direction of the Airport Authority, the Construction Professional shall monitor the construction or services provided by separate contractors. The Construction Professional shall notify the Airport Authority and Design Professional immediately of any conflicts, gaps, omissions, inconsistencies, incompatibilities, delays, deficiencies or other adverse which the Construction Professional discovers or observes at any time with respect to the design or the performance of work (other than the performance of the Construction Manager as Constructor).
- .x In performance of its services, the Construction Professional shall make allowances in its schedule and budget for coordination of its services with the Design Professional and the Airport

Authority. The services provided by the Construction Professional and the Design Professional and the Airport Authority are integrated and inter-dependent, for which the Construction Professional agrees to (i) use its best efforts to coordinate its performance with the related work, (ii) to accommodate schedule changes reasonably requested by such separate contractor(s), and (iii) in the event of schedule conflicts or other disputes the Construction Professional shall work diligently and in good faith with the Airport Authority to resolve such conflicts or disputes promptly and fairly.

- .xi The Construction Professional shall assist the Airport Authority in obtaining Project Approvals (as defined in the Contract Documents) as those being the responsibility of the Airport Authority.
- .xii Within ten (10) days after a Notice to Proceed by the Airport Authority, the Construction Professional shall schedule a conference with the Design Professional and the Airport Authority to discuss various progress scheduling, coordination, and deliverables of each.
- .xiii Within ten (10) days after a Notice to Proceed by the Airport Authority, the Construction Professional shall deliver to the Airport Authority all required insurance certificates as required by the Contract Documents.
- .xiv Prior to commencement of any construction, all site specific safety plans that are subject to the review of the Airport Authority shall be reviewed by the Construction Professional for comment to the Airport Authority in accordance with all state and federal statutes and laws, including rules and regulations of the FAA.
- .xv The Construction Professional shall assist and provide guidance to the overall management of labor relations in connection with the forthcoming projects.
- .xvi The Construction Professional shall coordinate with the Design Professional to establish organizational lines of authority and communication necessary to organize various aspects of the planning stages prior to actual construction.
- .xvii The Construction Professional shall provide a listing of its key staff who will have primary responsibility for significant portions of the services to be provided pursuant to Construction Professional's obligations.

.xviii The Construction Professional agrees that there will be no substitution of any of the assigned or approved key staff without prior written consent of the Airport Authority; and all substitutions shall be submitted to the Airport Authority for review and consent. The Airport Authority may require replacement of any member of the Construction Professional's key staff with or without cause at no increase in Construction Professional's contract pricing.

I-5.c. Anticipated Tasks and Scope of Work of the Construction Professional

The Construction Professional is expected to be an active member of the Terminal Modernization Team (TMT) which will be composed of staff from the Design Professional, the Construction Professional and the Airport Authority. The Construction Professional is expected to:

- .i Establish project requirements, develop alternatives, schedules, phasing strategies, complete necessary research, evaluations, analyses, and reports.
- .ii Prepare benefit cost analysis, grant and PFC eligibility analysis and documents, and other documents required by the FAA.
- .iii Determine environmental impact factors, prepare environmental statements in accordance with the National Environmental Protection Act (NEPA), as amended.
- .iv Assist the Airport Authority with the development of program funding strategies, grant applications, and other required documents.
- .v Develop code studies to confirm compliance with all applicable code requirements. Identify issues that may require variance, and meet with all required authorities having jurisdiction over this project, and other agencies on matters affecting the program.
- .vi Develop approach and targeted credits for LEED Silver rating, and register the project with the USGBC for LEED certification.
- .vii Develop the preparation of preliminary cost estimates.
- .viii Planning Phase Services: The Construction Professional is expected to successfully accomplish various tasks and activities required to complete analysis, develop and evaluation alternatives complete feasibility studies to define the scope of the project, develop design requirements,

complete necessary services to make application and receive federal funding including but not limited to:

- a) Conduct Site, Facility, Infrastructure, Energy and Operational Reviews and Investigation - the Construction Professional will complete or assist in completion of necessary reviews, analysis, tests to determine existing conditions and/or factors and information necessary to determine existing conditions and operational factors.
- b) Participate in Collaborative Planning Process - the Construction Professional will participate and provide input at all meetings, sessions, documents utilized by the Program Team to identify, evaluate the constraints, challenges, risks and alternative solutions available for the terminal and its associated facilities and infrastructure.
- c) Complete Conceptual Design and Constructability Reviews - the Construction Professional will provide input on conceptual design, construction feasibility factors, cost avoidance and reduction strategies, schedule drivers, and methods to ensure the safety of the public, employees, and workers.
- d) Provide Other Required Planning Phase Services - the Construction Professional will provide all other planning phase services required to successfully complete planning of the terminal modernization program.
- e) Other services as required.

.ix Design/Engineering Input and Pre-Construction Services: This phase includes activities required to complete the design, engineering of the program in multiple phases and multiple bid packs including but not limited to:

- a) Provide Input on Design – the Construction Professional will provide recommendations during the design process. This effort will identify opportunities for cost avoidance and reduction, schedule, or operation/maintenance savings that can be achieved without adversely impacting the safe operation, design intent or functional quality.
- b) Complete Constructability and Phasing Reviews – the Construction Professional will provide insight into means and methods intended to simplify the construction phasing,

schedule work to maximize bid competition and workforce/trades, and ensure public/employee/worker safety.

- c) Phasing and Logistics – The terminal and its associated facilities must remain operational during implementation of the terminal modernization program. Relocation of some functions within the terminal will likely be required to complete the projects within the terminal modernization program. The Construction Professional is to provide assistance to the Design Professional to develop documents in such a manner to facilitate the efficient phasing, bidding, and construction.
- d) Establish Construction Program and Documentation Requirements - the Construction Professional will develop reporting structure, work plan, control processes and procedures, and other items required by the Terms and Conditions.
- e) Schedule Development – The Construction Professional will develop a detailed Baseline Schedule with input from the Project Team. Baseline and subsequent schedules will be developed in a software and format acceptable to the Airport Authority and updated at agreed upon intervals. The schedule will identify detailed work activities as required by the Airport Authority.
- f) Provide Other Design Input and Pre-Construction Services - the Construction Professional will provide all other design assistance and pre-construction services required to successfully complete design and engineering of the terminal modernization program.
- g) Other services as required.

I-6 The Airport Authority's Responsibilities

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

- I-6.b. Review documents prepared by the Construction 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 Construction 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 Construction 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 Construction 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.
- I-6.e. Direct the flow of Airport information to the Construction Professional.
- I-6.f. Review progress of pre-construction activities
- I-6.g. Implement and maintain cost control procedures.
- I-6.h. Administer the Construction 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 Construction 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 Construction 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 Construction 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 qualified to perform the Services described in this Agreement, and/or all of the Construction Professional's subconsultants, agents and the like performing any Services related to this Agreement are properly licensed. The Construction 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 Construction 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 Construction 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 Construction Professional shall not add any key personnel and/or subconsultant and or subcontractor 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 Construction Professional's employees, subconsultants and/or subcontractor, and/or agents without cause, and without cost or expense of any type or amount to the Airport Authority. The Construction Professional shall not invoice or seek any Compensation from the Airport Authority for any time spent by newly assigned employees, subconsultants and/or subcontractor 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 subcontractor and/or agents to the Project and/or Task shall be borne solely by the Construction 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 Endorsement of Work

In entering this Agreement, the Airport Authority relied upon the qualifications of the Construction 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 Construction Professional's invoice for Services, the Construction 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 Construction 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 Construction Professional comply with the terms of this Agreement.

II-8 Commencement of Services

The Construction 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 Construction 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 documents, reports, letters, studies and reviews, developed in the performance of this Agreement, without additional Compensation to the Construction Professional. The Construction 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 patent or copyright law. The Construction 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 Construction Professional and/or its subconsultants and/or subcontractors, including AutoCAD, Revit, BIM, TIFF and/or PDF drawing files, tracings, drawings, estimates, reports, field notes, investigations, and studies, or other Instruments of Service, shall become the property of the Airport Authority. The Construction Professional and its subconsultants and subcontractors may retain copies of said documents for information and reference. Documents prepared by the Construction Professional, or its subconsultants and subcontractors, are only intended for the use of the Airport Authority.

II-10 Access to Work for Coordination Purposes

The Construction Professional shall permit the Airport Authority and, as approved by the Airport Authority, other public agencies interested, the Construction 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 Construction Professionals

To the extent that the Airport Authority contracts with multiple construction professionals for activities related to the Airports, or any portion thereof, the Airport Authority may request the Construction Professional to sequence work including but not limited to controlling access to construction site(s). If required by the Airport Authority, the Construction Professional will assist in the coordination of the Services provided by other Construction professionals related to the Project(s) authorized by this Agreement.

II-12 Disputes

The occurrence of disputes between the Airport Authority and the Construction Professional, or legal proceedings arising from such disputes, shall not relieve the Construction Professional of its obligation to properly and expeditiously perform the Services in compliance with the requirements of this Agreement. The Construction 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 Construction Professional should have discovered any dispute arising from or related to this Agreement. The Airport Authority shall not be liable to compensate the Construction Professional for any additional costs accrued more than five (5) calendar days before the Airport Authority received written notice of that dispute, and the Construction Professional hereinafter waives and releases the Airport Authority from any and all claims and liabilities which the Construction 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 Construction Professional may not suspend Work or delay the performance of the Services during the pendency of a dispute.

The Airport Authority and the Construction Professional will make good faith efforts to negotiate a resolution of any disputes. The initial negotiation shall be between representatives of the Construction 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 Construction 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 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 Construction 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 Construction 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 Construction 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 and Services provided. The sale of fifty (50%) percent or more of the capital stock of the Construction Professional (if the Construction 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 Construction Professional.

II-15 Additional Services

The Airport Authority may request that the Construction 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 Construction Professional, as set forth in this Agreement, and to the specific extent authorized by an AFS, the Airport Authority agrees to compensate the Construction 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 Construction 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 Construction 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

Construction Professional, without prior written approval from the Airport Authority by and through its Chief Executive Officer or his designee.

- II-16.b. The Construction 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 Construction Professional's invoices shall show for each employee of the Construction 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 Construction 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 Construction 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 Construction Professional agrees to provide, in a format acceptable to the Airport Authority, such other documentation as may be required to support its invoice. The Construction 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 Construction 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 Construction Professional may not invoice or otherwise seek payment for any Reimbursable Expenses for which the Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction Professional shall not be entitled to any lost profits for any Work or any Services which the Construction 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 Construction Professional or its subconsultant(s). Reimbursable Expenses shall be based on actual costs of the Construction 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 Construction 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 Construction 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 Construction Professional for services procured from subconsultants pursuant to its provision of the required Services. Subconsultant invoices, must be submitted with the Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction Professional once reviewed and approved by the Airport Authority's Chief Executive Officer or his designee. No retainage release shall be paid until the Construction 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 Construction 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 Construction 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 Construction Professional for

Services, for any Project or Task, exceed the amount the Construction 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 Construction 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 Construction 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 waivers of lien on the bond.
11. Monthly Report per Section II-6.

I-19 Accounting Practices

- II-19.a. The Construction 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 Construction 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 seven (7) 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 Construction 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 Construction Professional or any subconsultants) and overhead rates and charges.
- II-19.c. The Construction Professional shall maintain an acceptable cost accounting system. The Construction 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 contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Construction 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 Construction 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 Construction Professional's possession. Restoration of lost or damaged documents shall be at the Construction 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 Construction 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 Construction 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 Construction 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 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction Professional, either the necessary information or approval to proceed with the Services, resulting, through no fault of the Construction Professional, in the Construction 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 Construction Professional, the Construction Professional shall notify the Airport Authority within fifteen (15) calendar days of such circumstances or conditions at which time the Construction 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 Construction 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 Construction Professional to fulfill its obligations under the Agreement. Upon receipt of such notice, the Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction Professional agree that any violation or breach of the terms of this Agreement on the part of the Construction Professional, or any subcontractor or subconsultant of the Construction Professional, may result in the suspension or termination of this Agreement.
- II-23.e. Any termination of the Construction Professional for cause shall automatically be a termination of any follow-up agreement of the Construction Professional as the Construction Manager as Constructor in accordance with the family of documents referenced hereto.
- II-23.f. The Construction 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 Construction 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 Construction Professional acknowledge and agree that the Construction Professional is an independent contractor, not an employee of the Airport Authority, and that the Construction 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 Construction Professional, including, without limitation, insurance benefits or pension benefits.

Further, the Construction 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 Construction Professional, or if paid by the Airport Authority, the Construction Professional shall reimburse the Airport Authority upon demand.

II-25 Subconsultants

The Construction 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 Construction Professional

The Construction 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 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 Construction Professional warrants that the Services shall be consistent with the Standard of Care.

II-27 Confidentiality

The Construction Professional agrees that any information the Construction 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 Construction Professional may obtain knowledge or access from the Airport Authority during the Construction Professional's performance hereunder (hereinafter "Confidential Information") is proprietary and confidential to the Airport Authority. The Construction 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 Construction Professional. Prior to disclosure of Confidential Information to any of its employees or other authorized persons or subconsultants, the Construction 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 Construction 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 Construction Professional, its employees or any other authorized person to whom the Construction Professional has disclosed Confidential Information.

The Construction 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 Construction Professional shall submit its data protection protocol to the Airport Authority

and the Construction Professional before starting services. The Construction 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 Construction Professional's 'in house' quality assurance/quality control ("QA/QC") review process and procedure. The Construction Professional represents that it is an expert in the relevant construction fields and as such will provide a high quality services.

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 Construction Professional to perform Additional Services outside the Scope of Services (Exhibit A). Any such change, extension or modification of the Scope of Services (Exhibit A), which is mutually agreed upon by the Airport Authority and the Construction 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 Construction 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.

This Agreement includes all the provisions that do not conflict with this Agreement from the Request for Qualifications (RFQ), the Construction Professional's Response to the RFQ, the General Provisions, the Supplemental Terms and Conditions, and the Construction Manager as Constructor

(CMR) Contract as part of the family of documents and any and all exhibits hereto or to the aforementioned documents (the "Construction Documents").

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 Construction Professional:

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 Construction 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 Construction Professional agrees that service of process at the address and in the manner specified in this Agreement will be sufficient to put the Construction Professional on notice. The Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction Professional may not assign its rights, interests or obligations under this Agreement without the prior and express written consent of the

Airport Authority. The Construction 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 reject any proposed assignment as the Airport Authority deems fit.

ARTICLE III
COVENANTS/WARRANTIES/CERTIFICATIONS/
RESOLUTION/ASSURANCES

III-1 Corporate Authority

The Construction Professional represents and certifies that the person signing this Agreement on behalf of the Construction Professional is fully authorized to execute and commit the Construction 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 Construction 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 Construction Professional's performance, lack of performance, services, breach of this Agreement, or any negligent act, error, omission, willful misconduct, or intentional act, including Construction Professional's subconsultants, agents, suppliers, employees, or any person or organization which the Construction 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 Construction 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 Construction Professional, its agents, subconsultants, and others under workers' compensation acts, disability benefit acts, or other employee benefit acts.

The Construction Professional will not be liable hereunder for any injury, death, damage or loss to the extent caused by the Airport Authority's negligence or breach of contract, however the Construction 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 Construction 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 Construction 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 Construction Professional from claims, demands and lawsuits arising out of the Work and Services described in this Agreement and performed by the Construction 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 Construction Professionals responsibility for payment of damages resulting from the

Services provided pursuant to this Agreement. The Construction 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 Construction Professional to obtain additional insurance. The Airport Authority and the Construction Professional shall agree upon the price or sum for this additional insurance which shall not be greater than the price that the Construction 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 Construction 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 Construction 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.

Umbrella or Excess Liability: The Construction 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 Construction 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 Construction 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 Construction 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 Construction Professional's compliance with this Section; provided, however, that within thirty (30) calendar days following the written request of the Airport Authority, the Construction 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 Construction Professional may obtain professional liability insurance on a claims made bases; however, the Construction Professional must assure continuity of coverage for at least six (6) years following completion of this Agreement. The Construction Professional must extend its current policy for six (6) years or must obtain proper endorsements to a successor policy or policies.

The Construction Professional shall be responsible for any bodily injury or property damage due to actions of the Construction Professional. This condition shall apply whether the actions of the Construction Professional are covered or not covered by insurance. If the Construction 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 Construction Professional shall purchase, or cause to purchase, appropriate insurance protecting the Airport Authority and the Construction 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 Construction Professional's Deliverables and Instruments of Service and shall be written for not less than any limits of liability specified above. The Construction 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 Construction Professional from maintaining the maximum limits of liability if the insurance market makes obtaining the maximum limits unreasonably expensive for the Construction Professional. The Construction Professional must document that the Construction Professional has made good faith efforts to secure multi-year policies for all coverages in question if the Construction Professional wants to be excused from obtaining the maximum limits required. The Construction 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 Construction 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 Construction Professional, such insurer will not be subrogated to any of the Construction Professional rights of recovery therefore against the Airport Authority, its employees and agents. The Construction Professional will not execute, nor deliver any instruments or other documents, nor take any other action to secure any such rights for the Construction Professional's insurer(s) against the Airport Authority, its employees and agents.

In addition, the Construction 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 Construction Professional in accordance with this Agreement

III-3.b Construction Professional Safety Requirements

1. The Construction 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 Construction Professional and its subconsultants shall be the responsibility of the Construction Professional.
3. The Construction Professional and its subconsultant(s) shall comply with the following state and federal regulations as they relate to the Services performed by the Construction 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 Construction 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 Construction Professional and its subconsultants shall comply with the safety requirements set forth by the Airport Authority. During construction, the Construction Professional and its subconsultants shall comply with the overall construction safety plan instituted by the Airport Authority's contractor(s).
5. The Construction 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 Construction 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 Construction 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 Construction Professional agrees to adopt and enforce a policy that bans texting or text messaging while driving. This policy shall apply to all of Construction 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 Construction 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 Construction Professional shall immediately cease operations until such insurance is reinstated.

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

III-4 Solicitations to Secure Agreement

The Construction Professional certifies that it has not employed or retained any company or person other than bona fide employees working solely for the Construction 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 Construction 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 Construction Professional agrees no Federal appropriated funds shall be paid, by or on behalf of the Construction 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 Construction 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 Construction Professional certifies that there is no kinship directly or through marriage between the officers and principle beneficiaries of the Construction 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 Badging and Security Requirements

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

III-7 Non-Procurement Debarment and Suspension

The Construction 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 Construction Professional's execution of this Agreement constitutes its Certification of "Status" in respect to said regulation, and by so certifying, the Construction Professional, under penalty of perjury under the laws of the United States, certifies that, the Construction 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 Construction 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 Construction 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 planning or construction 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 Construction 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 Construction Professional, and all parties hired or working for the Construction 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 Construction 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 Construction 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 Construction 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 Construction Professional must notify any subconsultants of the obligations relative to nondiscrimination under this Agreement. The Construction 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 Construction 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 Construction 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 Construction 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 Construction Professional, this provision binds the Construction 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 Construction 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 Construction Professional makes to meet the commitment, that is, document all necessary and reasonable steps the Construction Professional takes to achieve the DBE commitment, including any amendments thereto. The Construction Professional shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Construction 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 Construction 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 Construction 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 Construction Professional receives from the Airport Authority. The Construction 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 Construction 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 Construction 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 Construction 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 Construction Professional may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The Construction Professional shall provide immediate written notice to the Airport Authority if the Construction 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 Construction 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 Construction 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 Construction 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 Construction Professional agrees that it and any subconsultants, vendors or other persons acting on Construction Professional's behalf under the Contract shall comply with Due Care and Continuing Obligation requirements, including any documentation related to those requirements. The Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction 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 Construction Professional's authority is expressly limited to its duties set forth in this Agreement. The Construction 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, Construction Professional shall not have the right to terminate any contractors of Airport Authority nor shall Construction 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 Construction 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 item or service furnished by Construction Professional will be promptly corrected by Construction Professional at no cost to Airport Authority, but the Construction Professional

shall not be responsible for construction costs. Airport Authority's approval, acceptance, use of or payment for all or any part of Construction Professional's services hereunder or of the Project itself shall in no way alter Construction Professional's obligations or Airport Authority's rights hereunder.

All services provided by the Construction 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 Construction 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 Construction Professional's services hereunder to be timely and properly performed.

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

Construction 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 Construction 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, Construction Professional shall promptly notify the Design Professional for correction of the same. 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 Construction 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 Construction 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 Construction 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.

Construction 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 Construction 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; and those documents referenced in Article II-30 of this Agreement.

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
CONSTRUCTION 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 Construction Professional and Its Subconsultants]

EXHIBIT B

KEY PERSONNEL

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

EXHIBIT C

FEES

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

EXHIBIT D

REIMBURSABLE EXPENSES

[Insert Reimbursable Schedule of Construction 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 Construction 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]

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