

Exhibit GP

**General Provisions to the Agreement for
Construction Manager as Constructor (CMR) and Related Services for
Terminal Modernization Program
at the Capital Region International Airport**

Between

Capital Region Airport Authority

And

[Construction Manager as Constructor (CMR)]

Contract No.: 19-04_____

Note: Where appropriate, these General Provisions shall apply to the Design Professional Agreement and to the Construction Professional Agreements as part of their construction contract documents.

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Section 10 Definition of Terms

Whenever the following terms are used in the Specifications, in the Contract, or in other Contract Documents, the intent and meaning shall be interpreted as follows:

10-01 AASHTO

The American Association of State Highway and Transportation Officials, the successor association to AASHTO.

10-02 ACCESS ROAD

The right-of-way, the roadway and all improvements constructed thereon connecting the Airport to a public highway.

10-02.a ADMINISTRATOR

Federal Aviation Administration Administrator.

10-03 ADVERTISEMENT

A public announcement, as required by local law, inviting bids for work to be performed and materials to be furnished.

10-04 AIP

The Airport Improvement Program, a grant-in-aid program, administered by the Federal Aviation Administration.

10-05 AIR OPERATIONS AREA (AOA)

For the purpose of these specifications, the term Air Operations Area shall mean any area of the Airport used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft. An AOA shall include such paved or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its associated Runway, Taxiway, or apron.

10-06 AIRPORT

Capital Regional International Airport, located in Lansing, Michigan

10-06.a APPLICABLE LAWS

Applicable laws, statutes, regulations, building codes and other codes, ordinances, rules, orders, guidelines, requirements and interpretations of the United States of America, the State of Michigan, the County of Clinton, the Capital Region Airport Authority and other federal, state and local governmental agencies and authorities having jurisdiction, and all amendments thereto, and the orders of courts of competent jurisdiction.

10-06.b APPLICATION FOR PAYMENT

Defined in Article 2, subsection 90-02.1 of the Contract.

10-07 ASTM

The American Society for Testing and Materials.

10-08 AWARD

The acceptance, by the Airport Authority, of the successful Bidder's Bid.

10-08.a BID

The written offer of the Bidder (when submitted on the approved bid form) to perform the contemplated Work and furnish the necessary Materials in accordance with the provisions of the Request for Bid.

10-08.b BID GUARANTY

The security furnished with a Bid to guarantee that the Bidder will enter into a contract if his/her Bid is accepted by the Airport Authority.

10-09 BIDDER

Any individual, partnership, firm, or corporation, acting directly or through a duly authorized representative, who submits a Bid for the work contemplated.

10-10 BUILDING AREA

An area on the Airport to be used, considered, or intended to be used for Airport buildings or other Airport facilities or rights-of-way together with all Airport buildings and facilities located thereon.

10-11 CALENDAR DAY

Every day shown on the calendar.

10-12 CHANGE ORDER

A written order issued by the Airport Authority to the CMR and signed by the Airport Authority and the CMR authorizing covering changes in the Plans, Specifications, or Bid quantities and establishing the basis of payment and Contract Time adjustment, if any, for the Work affected by such changes. The Work covered by a Change Order shall be within the scope of the Contract. Change Orders shall be issued on a form provided by the Airport Authority.

10-12.a CHANGE PROPOSAL

A written proposal confirming the character and scope of Work, and all elements of pricing and impact on schedule of proposed changes to the Work.

10-12.b COMMERCIAL ITEM DESCRIPTIONS

Official U.S. Government procurement documents containing product descriptions that concisely describe the most important characteristics of a commercial product.

10-12.c CONSTRUCTION MANAGER AS ADVISOR (CMA)

The Construction Manager as Advisor (CMA) shall have a contract direct with the Airport Authority, upon notice from the Airport Authority, the Construction Professional shall convert to a Construction Manager as Constructor (CMR).

10-12.d CONSTRUCTION MANAGER AS CONSTRUCTOR (CMR)

The Construction Manager as Constructor (CMR) shall have a contract agreement directly with the Airport Authority.

10-13 CONTRACT

That certain Construction Services Contract by and between the CMR and the Airport Authority dated as of _____, and including all documents incorporated therein.

10-13.a CONTRACT DOCUMENTS

Those documents set forth in **Exhibit CD** to the Contract.

10-14 CONTRACT ITEM (PAY ITEM)

A specific unit of Work for which a price is provided in the Contract.

10-14.a CONTRACT PRICE

Defined in Article 2, subsection 90-02 of the Contract.

10-15 CONTRACT TIME

The number of Calendar Days or Working Days, stated in the Bid, allowed for completion of the Contract, including authorized time extensions. If a calendar date of completion is stated in the Bid, in lieu of a number of Calendar or Working Days, the Contract shall be completed by that date.

10-16 CONTRACTOR

The individual, partnership, firm, or corporation primarily liable for the acceptable performance of the Work contracted and for the payment of all legal debts pertaining to the work who acts directly or through lawful agents or employees to complete the Contract Work. "Contractor" shall mean CMR

10-16.a CONTRACTOR CHANGE NOTICE

Defined in Article 2, subsection 50-16 of the Contract.

10-16.b CONTRACTOR CHANGE REQUEST

Defined in Article 2, subsection 50-16 of the Contract.

10-16.c CORRECTION PERIOD

Defined in Article 2, subsection 50-17 of the Contract.

10-16.d DBE

Disadvantaged Business Enterprises. As required by the RFB and Attachment J to the RFB, the CMR shall subcontract no less than _____ of the Work to Disadvantaged Business Enterprises or provide good faith efforts of the same. The CMR shall provide detailed documentation to the Airport Authority of the CMR's DBE efforts, successes and failures. The CMR shall comply with Title 49 of the Code of Federal Regulations, Part 26.

10-16.c DESIGN PROFESSIONAL

The individual, partnership, firm, or corporation duly authorized by the Airport Authority to be responsible for engineering, inspection and observation of the Contract Work and acting directly or through an authorized representative. The Design Professional may act only with the written authorization of the Airport Authority.

10-17 DRAINAGE SYSTEM

The system of pipes, ditches, and structures by which surface or subsurface waters are collected and conducted from the Airport area.

10-18 DRAWINGS

The graphic and pictorial portions of the Contract Documents prepared by the Design Professional showing the design, location, scope and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams. Shop Drawings are not Drawings.

10-19 EQUIPMENT

All machinery, together with the necessary supplies for upkeep and maintenance, and also all tools and apparatus necessary for the proper construction and acceptable completion of the Work.

10-20 EXTRA WORK

An item of Work not provided for in the awarded Contract as previously modified by Change Order or Supplemental Agreement, but which is found by the Airport Authority and the Design Professional to be necessary to complete the Work within the intended scope of the Contract as previously modified.

10-21 FAA

The Federal Aviation Administration of the U.S. Department of Transportation. When used to designate a person, FAA shall mean the Administrator or his/her duly authorized representative.

10-21.a FAA AIRWAY FACILITIES POINT OF CONTACT

The FAA representative designated as the person to contact in the Specifications in the event construction activities may affect FAA-owned utility facilities.

10-22 FEDERAL SPECIFICATIONS

The Federal Specifications and Standards, Commercial Item Descriptions, and supplements, amendments, and indices thereto that are prepared and issued by the General Services Administration of the Federal Government.

10-22.a FIELD ORDER

A written order issued by the Airport Authority which orders a minor change in the Work not involving a change in the Contract Price or the Contract Time.

10-22.b FINAL ACCEPTANCE OR FINAL COMPLETION

Notice provided to the CMR by the Design Professional, in consultation with the Airport Authority, that all construction provided for and contemplated by the Contract is found to be completed in accordance with the Contract, Plans, and Specifications and all documentation, and other matters are resolved as provided in Article 2, subsection 50-15 of the Contract.

10-23 FORCE ACCOUNT

Force Account construction work is construction that is accomplished through the use of Material, Equipment, labor, and supervision provided by the Airport Authority or by another public agency pursuant to an agreement with the Airport Authority.

10-23.a GOOD INDUSTRY PRACTICES

Practices, procedures, methods and standards that (i) are consistent with current practices and standards established for, or employed by, leading participants in the construction industry in the United States; (ii) comply with Applicable Laws and applicable industry insurance underwriters' requirements and fire and life safety codes and standards; and (iii) promote the highest standards of reliability, efficiency, safety and security. Good Industry Practices require, without limitation, that reasonable steps be taken to assure that sufficient personnel are employed and available to perform the Work, and that such personnel are adequately skilled, experienced and trained to construct and install the Work properly and efficiently, and that appropriate coordination, monitoring and testing is performed to assure that all elements of the Work are constructed and installed so as to function as required by the Contract Documents.

10-24 INSPECTOR

An authorized representative of the Design Professional assigned to make all necessary inspections, observations and tests of the work performed or being performed, or of the Materials furnished or being furnished by the CMR.

10-25 INTENTION OF TERMS

Whenever, in these Specifications or on the Plans, the words “directed,” “required,” “permitted,” “ordered,” “designated,” “prescribed,” or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation, or prescription of the Design Professional is intended; and similarly, the words “approved,” “acceptable,” “satisfactory,” or words of like import, shall mean approved by, or acceptable to, or satisfactory to the Design Professional, subject in each case to the final determination of the Airport Authority.

Any reference to a specific requirement of a numbered paragraph of the Contract Specifications or a cited standard shall be interpreted to include all general requirements of the entire section, specification item, or cited standard that may be pertinent to such specific reference.

10-26 LABORATORY

The official testing laboratories of the Airport Authority or such other laboratories as may be designated by the Design Professional.

10-27 LIGHTING

A system of fixtures providing or controlling the light sources used on or near the Airport or within the Airport buildings. The field lighting includes all luminous signals, markers, floodlights, and illuminating devices used on or near the Airport or to aid in the operation of aircraft landing at, taking off from, or taxiing on the Airport surface.

10-28 MAJOR AND MINOR CONTRACT ITEMS

A Major Contract Item shall be any Contract Item that is listed in the Bid, the total cost of which is equal to or greater than 20 percent of the total amount of the awarded Contract. All other items shall be considered Minor Contract Items.

10-29 MATERIALS

Any substance specified for use in the construction of the Contract Work.

10-30 NOTICE TO PROCEED

A written notice issued by the Airport Authority to the CMR to begin the actual Contract Work on a previously agreed to date. If applicable, the Notice to Proceed shall state the date on which the Contract Time begins. The Airport Authority and CMR agree the Airport Authority may issue multiple Notices to Proceed.

10-31 OWNER

The term “Owner” shall mean the party of the first part or the contracting agency signatory to the Contract. For AIP contracts, the term “sponsor” shall have the same meaning as the term “Owner.” Where the term “Owner” is capitalized in this document, it shall mean the Capital Region Airport Authority, its successor or assigns. The Owner may act directly or through its authorized representatives.

10-31.a OWNER’S REPRESENTATIVE

The person or persons identified as a representative of the Airport Authority in the Contract, or other person(s) or entity hereafter designated by the Airport Authority as Airport Authority’s Representative in replacement thereof.

10-32 PAVEMENT

The combined surface course, base course, and subbase course, if any, considered as a single unit.

10-33 PAYMENT BOND

The approved form of security furnished by the CMR and his/her Surety as a guaranty that he will pay in full all bills and accounts for materials and labor used in the construction of the Work. The Payment Bond shall be on the AIA 311 Bond form and in a form acceptable to the Airport Authority, from the Surety licensed to do business in the State of Michigan and with an AM BEST rating of A or better. The Airport Authority retains the sole discretion to reject any proposed bonds.

10-34 PERFORMANCE BOND

The approved form of security furnished by the CMR and his/her Surety as a guaranty that the CMR will complete the Work in accordance with the terms of the Contract. The Performance Bond shall be on the AIA 311 Bond form and in a form acceptable to the Airport Authority, from the Surety licensed to do business in the State of Michigan and with an AM BEST rating of A or better. The Airport Authority retains the sole discretion to reject any proposed bonds.

10-35 PLANS

The official drawings or exact reproductions which show the location, character, dimensions and details of the Airport and the Work to be done and which are to be considered as a part of the Contract, supplementary to the Specifications.

10-35.a PRODUCT DATA

Illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the CMR to illustrate a Material, product, assembly or system for some portion of the Work.

10-36 PROJECT

The agreed scope of Work for accomplishing specific Airport development with respect to the Airport, and as described in the Construction Services Contract.

10-36.a PROJECT APPROVAL

Defined in Article 2, subsection 70-02 of the Contract.

10-36.b PROJECT DIRECTORY

Defined in Article 2, subsection 80-01 of the Contract.

10-37 Intentionally Deleted.

10-38 Intentionally Deleted.

10-38.a QA/QC

Quality Assurance/Quality Control.

10-38.b RECORDS

Defined in Article 2, subsection 80-09 of the Contract.

10-38.c RESIDENT AGENT

A person appointed by a corporation, limited liability company, limited partnership, or limited liability partnership (foreign only) to receive any documents, notices, or demands served upon the company as required by Applicable Law.

10-38.d RFB

Request for Bid.

10-38.e RULES AND REGULATIONS OF THE FAA

All rules and regulations promulgated by the FAA under its federal statutory authority.

10-39 RUNWAY

The area on the Airport prepared for the landing and takeoff of aircraft.

10-39.a SAMPLES

Physical examples which illustrate Materials, products, Equipment or workmanship and which, when approved in accordance with the Contract Documents, establish standards by which the Work will be judged.

10-39.b SITE

The area or areas indicated within the Contract limit lines on the Drawings or otherwise defined in the Contract Documents, together with such additional areas or locations adjacent thereto in which construction operations or Work required under the Contract are being carried out in accordance herewith.

10-39.c SHOP DRAWINGS

All drawings, prints, diagrams, illustrations, brochures, schedules and other data which are specially prepared for the Work by the CMR, a Subcontractor, manufacturer, Supplier or distributor, which illustrate how specific portions of the Work shall be fabricated or installed.

10-40 SPECIFICATIONS

A part of the Contract containing the written directions and requirements for completing the Contract Work. Standards for specifying Materials or testing which are cited in the Contract Specifications by reference shall have the same force and effect as if included in the Contract physically.

10-41 SPONSOR

See definition above of "Owner."

10-41.a STATE HIGHWAY DIVISION

Michigan Department of Transportation.

10-42 STRUCTURES

Airport facilities such as bridges; culverts; catch basins, inlets, retaining walls, cribbing; storm and sanitary sewer lines; water lines; underdrains; electrical ducts, manholes, handholes, lighting fixtures and bases; transformers; flexible and rigid pavements; navigational aids; buildings; vaults; and, other manmade features of the Airport that may be encountered in the work and not otherwise classified herein.

10-42.a SUBCONTRACT

Defined in Article 2, subsection 80-01 of the Contract.

10-42.b SUBCONTRACTOR

A person, firm or corporation having a contract with the CMR or with any other Subcontractor, regardless of tier, for the performance of a part of the Work at the Site.

10-43 SUBGRADE

The soil that forms the Pavement foundation.

10-43.a SUBSTANTIAL COMPLETION

The point at which the Work is sufficiently complete that (i) the requirements of Article 2, subsection 50-14 of the Contract, and any special requirements provided in the Contract have been satisfied, (ii) construction is sufficiently complete, in accordance with the Contract Documents, so the Airport Authority can legally use or occupy the Project or designated portion thereof for the use for which it is intended and only Minor Contract Items, which have no material effect upon the use, function or value of the Project, remain to be completed, (iii) any Work remaining to be completed will not interfere with the Airport Authority's use and occupancy of the Project, and (iv) the CMR has obtained a temporary or permanent certificate of inspection, use or occupancy for the Project or designated portion thereof and temporary or permanent operating permits for any mechanical systems or apparatus which may be required by law to permit full use and occupancy of the completed Project.

10-43.b SUBSTANTIAL COMPLETION DATE

The date of Substantial Completion of the Work or designated portion as certified by the Design Professional and approved by the Airport Authority.

10-44 SUPERINTENDENT

The CMR's executive representative who is present on the Work during progress, authorized to receive and fulfill instructions from the Design Professional, and who shall supervise and direct the construction.

10-45 SUPPLEMENTAL AGREEMENT

A written agreement between the CMR and the Airport Authority covering (1) Work that would increase or decrease the total amount of the awarded Contract, or any Major Contract Item, by more than 25 percent, such increased or decreased work being within the scope of the originally awarded contract; or (2) Work that is not within the scope of the originally awarded Contract.

10-45.a SUPPLIER

Any person, corporation or other entity having a contract with the CMR, any Subcontractor or any other supplier regardless of tier, who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the Site.

10-46 SURETY

The corporation, partnership, or individual, other than the CMR, executing Payment or Performance bonds that are furnished to the Airport Authority by the CMR.

10-47 TAXIWAY

For the purpose of this document, the term Taxiway means the portion of the AOA of an airport that has been designated by competent airport authority for movement of aircraft to and from the airport's Runways or aircraft parking areas.

10-48 WORK

The furnishing of all labor, Materials, tools, Equipment, and incidentals necessary or convenient to the CMR's performance of all duties and obligations imposed by the Contract, Plans, and Specifications. Work includes preconstruction services furnished by the CMR, and all construction work and related services, as provided in or required by the Contract Documents, whether completed or partially completed, including all subcontracted work. The Work may

constitute the whole or a part of the Project. The Work includes all labor, work and services necessary to produce the construction required by or reasonably inferable from the Contract Documents, and all Materials and equipment incorporated or to be incorporated in such construction.

10-49 WORKING DAY

A Working Day shall be any day other than a legal holiday, Saturday, or Sunday on which the normal working forces of the CMR may proceed with regular work for at least 6 hours toward completion of the Contract. When Work is suspended for causes beyond the CMR's control, Saturdays, Sundays and holidays on which the CMR's forces engage in regular work, requiring the presence of an inspector, will be considered as Working Days.

END OF SECTION 10

Section 20 Bid Requirements and Conditions

20-01 ADVERTISEMENT (Notice to Bidders)

The published notice of the proposed Work was provided by the Airport Authority.

20-02 PREQUALIFICATION OF BIDDERS

Each Bidder shall furnish the Airport Authority satisfactory evidence of his/her competency to perform the proposed Work. Such evidence of competency, unless otherwise specified, shall consist of statements covering the Bidder's past experience on similar work, a list of equipment that would be available for the proposed Work, and a list of key personnel that would be available. In addition, each Bidder shall furnish the Airport Authority satisfactory evidence of his/her financial responsibility. Such evidence of financial responsibility, unless otherwise specified, shall consist of a confidential statement or report of the Bidder's financial resources and liabilities as of the last calendar year or the CMR's last fiscal year. Such statements or reports shall be certified by a public accountant. At the time of submitting such financial statements or reports, the Bidder shall further certify whether his/her financial responsibility is approximately the same as stated or reported by the public accountant. If the Bidder's financial responsibility has changed, the Bidder shall qualify the public accountant's statement or report to reflect his/her (Bidder's) true financial condition at the time such qualified statement or report is submitted to the Airport Authority.

Unless otherwise specified, a Bidder may submit evidence that he is prequalified with the State Highway Division and is on the current "bidder's list" of the state in which the proposed Work is located. Such evidence of State Highway Division prequalification may be submitted as evidence of financial responsibility in lieu of the certified statements or reports hereinbefore specified.

Each Bidder shall submit "evidence of competency" and "evidence of financial responsibility" to the Airport Authority with the Bid.

20-03 CONTENTS OF BID FORMS

Bid forms are attached to the Contract Documents. All papers bound with or attached to the bid forms are necessary parts and must not be detached.

The Plans, Specifications, and other documents designated in the bid form shall be considered a part of every Bid whether attached or not.

20-04 ISSUANCE OF BID FORMS

The Airport Authority reserves the right to refuse to issue a bid form to a prospective Bidder should such prospective Bidder be in default for any of the following reasons:

- a. Failure to comply with any prequalification regulations of the Airport Authority, if such regulations are cited, or otherwise included, as a requirement for bidding.
- b. Failure to pay, or satisfactorily settle, all bills due for labor and materials on former contracts in force (with the Airport Authority) at the time the Airport Authority issues the RFB to a prospective Bidder.
- c. CMR default under previous contracts with the Airport Authority.
- d. Unsatisfactory work on previous contracts with the Airport Authority.

20-05 INTERPRETATION OF ESTIMATED BID QUANTITIES

An estimate of quantities of work to be done and materials to be furnished under these Specifications is provided in the Contract Documents attached hereto and in the Price Form is also included in the Contract Documents attached hereto. It is the result of careful calculations and is believed to be correct. It is given only as a basis for comparison of Bids and the Award. The Airport Authority does not expressly or by implication agree that the actual quantities involved will correspond exactly therewith; nor shall the Bidder plead misunderstanding or deception because of such estimates of quantities, or of the character, location, or other conditions pertaining to the Work. Payment to the CMR will be made only for the actual quantities of work performed or Materials furnished in accordance with the Plans and Specifications. It is understood that the quantities may be increased or decreased as hereinafter provided in the subsection titled ALTERATION OF WORK AND QUANTITIES of subsection 40-02 without in any way invalidating the unit bid prices.

20-06 EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE

The Bidder is expected to carefully examine the Site of the proposed Work, the description of the proposed Work, Plans, Specifications, and Contract forms. The Bidder shall satisfy himself or herself as to the character, quality, and quantities of work to be performed, materials to be furnished, and as to the requirements of the proposed Contract. The submission of a Bid shall be prima facie evidence that the Bidder has made such examination and is satisfied as to the conditions to be encountered in performing the Work and as to the requirements of the Site of the proposed Work, the description of the proposed Work, Plans, Specifications, and Contract forms.

Boring logs and other records of subsurface investigations and tests are available for inspection of Bidders. It is understood and agreed that such subsurface information, whether included in the Plans, Specifications, or otherwise made available to the Bidder, was obtained and is intended for the Airport Authority's design and estimating purposes only. Such information has been made available for the convenience of all Bidders. It is further understood and agreed that each Bidder is solely responsible for all assumptions, deductions, or conclusions which he may make or obtain from his/her examination of the boring logs and other records of subsurface investigations and tests that are furnished by the Airport Authority.

The Site of the proposed Work, the description of the proposed Work, the Plans and Specifications are all described in the Contract Documents.

20-07 PREPARATION OF BID

The Bidder shall submit his/her Bid on the forms furnished by the Airport Authority. All blank spaces in the bid forms must be correctly filled in where indicated for each and every item for which a quantity is given. The Bidder shall state the price (written in ink or typed) in numerals for which he proposes to do each pay item furnished in the Bid. The Bidder shall state the total bid price in written words and in numerals. In case of conflict between words and numerals for the total bid price, the words, unless obviously incorrect, shall govern.

The Bidder shall sign his/her Bid correctly and in ink. If the Bid is made by an individual, his/her name and post office address must be shown. If made by a partnership, the name and post office address of each member of the partnership must be shown. If made by a corporation, the person signing the Bid shall give the name of the state under the laws of which the corporation was chartered and the name, titles, and business address of the president, secretary, and the treasurer. Anyone signing a Bid as an agent shall file evidence of his/her authority to do so and that the signature is binding upon the firm or corporation.

20-08 IRREGULAR BIDS

Bids shall be considered irregular for the following reasons:

- a. If the Bid is on a form other than that furnished by the Airport Authority, or if the Airport Authority's form is altered, or if any part of the bid form is detached.
- b. If there are unauthorized additions, conditional or alternate pay items, or irregularities of any kind that make the Bid incomplete, indefinite, or otherwise ambiguous.
- c. If the Bid does not contain a unit price for each pay item listed in the Bid, except in the case of authorized alternate pay items, for which the Bidder is not required to furnish a unit price.
- d. If the Bid contains unit prices that are obviously unbalanced.
- e. If the Bid is not accompanied by the Bid Guarantee as specified herein.

The Airport Authority reserves the right to reject any irregular Bid and the right to waive technicalities if such waiver is in the best interest of the Airport Authority and conforms to local laws and ordinances pertaining to the letting of construction contracts.

20-09 BID GUARANTEE

The Bidder is required to submit an AIA 310 bid bond in the amount of 5% of the Bidder's total Bid submitted made payable to the Capital Region Airport Authority. The Bidder must submit the bid bond with the Bid in response to this Request for Bid (RFB). The Surety issuing the bid bonds must be authorized to conduct business in the State of Michigan. If the Surety issuing a bid bond goes out of business during the course of bid evaluation and issuance of a contract, the Bidder must retain another surety (bonding) agent, which meets the original qualifications, and immediately notify the Airport Authority of such changes. Failure to submit the bid bond that meets the requirements of this RFB will result in the Bid being deemed nonresponsive and the Bid rejected without any further evaluation. Upon acceptance of the Bidder's Bid, the AIA 310 Bid Bond shall provide assurance that the Bidder will sign the Contract.

20-10 DELIVERY OF BID

Each Bid submitted shall be placed in a sealed envelope, box, or package plainly marked on the outside with the RFB title, control number, location of Airport, bid deadline, and the business name, address, telephone number, fax number, and contact name of the Bidder. When sent by mail, preferably registered, the sealed Bid, marked as indicated above, should be enclosed in an additional envelope. No Bid will be considered unless received at the place specified in the Advertisement (Notice to Bidders) before the time specified for opening all Bids. Bids received after the bid opening time shall be returned to the Bidder unopened.

20-11 WITHDRAWAL OR REVISION OF BIDS

A Bidder may withdraw or revise (by withdrawal of one Bid and submission of another) a Bid provided that the Bidder's request for withdrawal is received by the Airport Authority in writing or by facsimile before the time specified for opening Bids. Revised Bids must be received at the place specified in the Advertisement (Notice to Bidders) before the time specified for opening all Bids.

20-12 PUBLIC OPENING OF BIDS

Bids shall be opened, and read, publicly at the time and place specified in the Advertisement (Notice to Bidders). Bidders, their authorized agents, and other interested persons are invited to

attend. Bids that have been withdrawn (by written or facsimile request) or received after the time specified for opening Bids shall be returned to the Bidder unopened.

20-13 DISQUALIFICATION OF BIDDERS

A Bidder shall be considered disqualified for any of the following reasons:

- a.** Submitting more than one Bid from the same partnership, firm, or corporation under the same or different name.
- b.** Evidence of collusion among Bidders. Bidders participating in such collusion shall be disqualified as Bidders for any future work of the Airport Authority until any such participating Bidder has been reinstated by the Airport Authority as a qualified Bidder.
- c.** If the Bidder is considered to be in "default" for any reason specified in the subsection titled ISSUANCE OF BID FORMS of this section.
- d.** If the Bidder does not meet the minimum qualifications set forth in the RFB.

END OF SECTION 20

Section 30 Award and Execution of Contract

30-01 CONSIDERATION OF BIDS

After the Bids are publicly opened and read, they will be compared on the basis of the summation of the products obtained by multiplying the estimated quantities shown in the Bid by the unit bid prices. If a Bidder's Bid contains a discrepancy between the total bid price written in words and the total bid price written in numbers, the total bid price written in words shall govern.

Until the Award is made, the Airport Authority reserves the right to reject a Bidder's Bid for any of the following reasons:

- a. If the Bid is irregular as specified in the subsection titled IRREGULAR BIDS of Section 20 of this RFB.
- b. If the Bidder is disqualified for any of the reasons specified in the subsection titled DISQUALIFICATION OF BIDDERS of Section 20.

In addition, until the Award is made, the Airport Authority reserves the right to reject any or all Bids, waive technicalities, if such waiver is in the best interest of the Airport Authority and is in conformance with applicable state and local laws or regulations pertaining to the letting of construction contracts; advertise for new bids; or proceed with the Work otherwise. All such actions shall promote the Airport Authority's best interests.

30-02 AWARD OF CONTRACT

The Award, if it is to be made, shall be made within 30 to 120 Calendar Days following the date specified for publicly opening Bids, unless otherwise specified herein. Award shall be made by the Airport Authority to the lowest, qualified Bidder whose Bid conforms to the cited requirements of the Airport Authority. No Award shall be made until the FAA has concurred in the Airport Authority's recommendation to make such Award and has approved the Airport Authority's proposed Contract to the extent that such concurrence and approval are required by 49 CFR Part 18. The Airport Authority reserves the right to award by groups of items, or total Bid. The Bidder to whom the Award is made will be notified at the earliest practical date. Tentative acceptance of the Bid, intent to recommend Award, and actual Award will be provided by written notice sent to the Bidder at the address designated in the Bid. The Contract term commences upon issuance of the Airport Authority's Notice to Proceed and terminates upon the Airport Authority's final payment for all required services resulting from this RFB.

30-03 CANCELLATION OF AWARD

The Airport Authority reserves the right to cancel the Award without liability to the Bidder, except return of Bid Guaranty, at any time before the Contract has been fully executed by all parties and is approved by the Airport Authority in accordance with the subsection titled APPROVAL OF CONTRACT of this section.

30-04 RETURN OF BID GUARANTY

All Bid Guaranties, except those of the two lowest Bidders, will be returned immediately after the Airport Authority has made a comparison of Bids as hereinbefore specified in the subsection titled CONSIDERATION OF BIDS of this section. Bid Guaranties of the two lowest Bidders will be retained by the Airport Authority until such time as an Award is made, at which time, the

unsuccessful Bidder's Bid Guaranty will be returned. The successful Bidder's Bid Guaranty will be returned as soon as the Airport Authority receives the contract bonds as specified in the subsection titled REQUIREMENTS OF CONTRACT BONDS AND INSURANCE of this section.

30-05 REQUIREMENTS OF CONTRACT BONDS AND INSURANCE

At the time of the execution of the Contract, the successful Bidder shall furnish the Airport Authority a surety bond or bonds that have been fully executed by the Bidder and the Surety guaranteeing the performance of the Work and the payment of all legal debts that may be incurred by reason of the CMR's performance of the Work. The Surety and the form of the bond or bonds shall be acceptable to the Airport Authority. The surety bond or bonds shall be in a sum equal to the full amount of the Contract and conditioned upon the faithful performance of the Contract, and the payment of all laborers performing Work in this Contract. The Surety issuing the Performance and Payment Bonds must be authorized to conduct business in the State of Michigan. The CMR shall submit bonds using the American Institute of Architects (AIA) Form A311 format. If the Surety issuing the bond goes out of business during the performance of the Work, the CMR must retain another surety (bonding) agent, which meets the original qualifications, and immediately notify the Airport Authority of such changes.

The CMR also must submit proof that they comply with all Airport Authority insurance requirements prior to receiving an executed contract and purchase order. Proof of insurance as stated below will be required within five (5) days of request. To expedite the process, it is suggested that the Bidder submit a copy of its current insurance coverage with its Bid.

CMR (and all subcontractors) shall take out, carry and maintain the following insurance coverages:

A. Workers' Compensation Insurance, including Employer's Liability Insurance, complying with the laws of the State of Michigan. Employer's Liability Insurance shall be provided with a limit not less than Five Hundred Thousand Dollars (\$500,000.00); Alternate worksite should be designated for work on airport premises. Waiver of subrogation applies.

B. Commercial General Liability Insurance, with all standard insuring agreements including primary and non-contributory additional insured status for Completed Operations Liability as well as coverage on all CMR's equipment (other than motor vehicles licensed for highway use) owned, hired or used in the performance of this Contract with limits not less than Five Million Dollars (\$5,000,000.00) – Bodily Injury and Property Damage combined each occurrence and aggregate; waiver of subrogation applies; Additional insured to include Capital Region Airport Authority, its board members, officers, employees, assigns and agents and the County of Clinton, Michigan.

C. Automobile Liability Insurance, including Contractual Liability, concerning all motor vehicles owned, hired, non-owned or otherwise used in the performance of this Contract, with limits not less than Five Million Dollars (\$5,000,000.00) – Bodily Injury and Property Damage combined each occurrence; and waiver of subrogation applies in favor of the additional insured; primary/non-contributory status applies

D. Property Equipment and Installation Floater Insurance, covering all CMR's equipment, property of others coverage for that which may be owned by the Airport Authority and in the care custody or control of the contract; used, or to be used, on the Project, whether or not located at the Site or elsewhere, and in the full amount and value of the equipment and materials.

E. CMR Pollution Legal Liability including coverage for pollutants or hazardous materials while on site, in transit and loading or unloading; and for non-owned disposal sites in the amount of \$1,000,000 – as applicable for the work performed.

All insurance policies must be issued by recognized, responsible insurers licensed or approved by the Insurance Bureau of the State of Michigan and shall have an AM Best financial rating no lower than ~~X~~ A-VII , current edition or interim report; or equivalent rating from a recognized rating agency. All insurance policies must name the CMR as insured, name the Airport Authority and the County of Clinton, Michigan including as additional insureds with respect to general and automobile liability coverages on a primary/non-contributory basis, and shall not be canceled, terminated or materially changed without at least thirty (30) days prior written notice from the CMR to the Airport Authority. The Airport Authority reserves the right to request complete copies of any insurance policies required by this Contract if deemed necessary to ascertain the details of coverage not provided by the Certificates. Such copies shall be "Originally Signed Copies" and so designated. The CMR shall provide complete copies of any insurance policies no later than thirty (30) days following the request of the Airport Authority.

CMR waives any rights of subrogation for personal injury, bodily injury or property damage against Capital Region Airport Authority, its board members, officers, employees, assigns and agents arising from or related to this Contract. In the event of any payment by any insurer of CMR, such insurer will not be subrogated to any of CMR's rights of recovery therefore against Airport Authority, its board members, officers, employees, assigns and agents. CMR shall not execute, nor deliver any instruments or other documents, nor take any other action to secure any such rights for CMR's insurer(s) against Airport Authority, its board members, officers, employees and agents. In addition, CMR forever and irrevocably waives any rights of recovery it may have against Capital Region Airport Authority, its Board members, officers, employees and agents for insured losses occurring to any property insured by CMR in accordance with this Contract.

All Subcontractors shall maintain the same insurance required of the CMR.

30-06 EXECUTION OF CONTRACT

The successful Bidder shall sign (execute) the necessary agreements for entering into the Contract and return such signed Contract to the Airport Authority, along with the fully executed surety bond or bonds specified in the subsection titled REQUIREMENTS OF CONTRACT BONDS of this section, within 5 Calendar Days from the date mailed or otherwise delivered to the successful Bidder. If the Contract is mailed, special handling is recommended.

30-07 APPROVAL OF CONTRACT

Upon receipt of the Contract and contract bond or bonds that have been executed by the successful Bidder, the Airport Authority shall complete the execution of the Contract in accordance with local laws or ordinances, and return the fully executed Contract to the CMR. Delivery of the fully executed Contract to the CMR shall constitute the Airport Authority's approval to be bound by the successful Bidder's Bid and the terms of the Contract.

30-08 FAILURE TO EXECUTE CONTRACT

Failure of the successful Bidder (CMR) to execute the Contract and furnish an acceptable surety bond or bonds within the 5 Calendar Day period specified in the subsection titled REQUIREMENTS OF CONTRACT BONDS of this section shall be just cause for cancellation of the Award and forfeiture of the Bid Guaranty, not as a penalty, but as liquidation of damages to the Airport Authority.

30-09 PROGRESS PAYMENT AND RETAINAGE

The Airport Authority will pay the successful Bidder (CMR) monthly for Work performed upon the submission of a correct and complete invoice in accordance with the Airport Authority's requirements and the Contract. The Airport Authority will retain a portion of each progress

payment otherwise due to the successful Bidder (CMR) in accordance with the Michigan Public Agency Construction Contracts Act, MCL 125.1561, et seq.; MSA 5.2949(101) et seq., as such requirements may be amended or superseded from time to time.

END OF SECTION 30

Section 40 Scope of Work

40-01 INTENT OF CONTRACT

The intent of the Contract is to provide for construction and completion, in every detail, of the Work described. It is further intended that the CMR shall furnish all labor, Materials, Equipment, tools, transportation, and supplies required to complete the Work in accordance with the Plans, Specifications, and terms of the Contract.

40-02 ALTERATION OF WORK AND QUANTITIES

- a.** The Airport Authority reserves and shall have the right to make such alterations in the Work as may be necessary or desirable to complete the Work originally intended in an acceptable manner. Unless otherwise specified herein, the Design Professional shall be and is hereby authorized to make such alterations in the Work as may increase or decrease the originally awarded Contract quantities, provided that the aggregate of such alterations does not change the total Contract cost or the total cost of any Major Contract Item by more than 25 percent (total cost being based on the unit prices and estimated quantities in the awarded Contract). Alterations that do not exceed the 25 percent limitation shall not invalidate the Contract nor release the Surety, and the CMR agrees to accept payment for such alterations as if the altered Work had been a part of the original Contract. These alterations that are for Work within the general scope of the Contract shall be covered by Change Orders issued by the Design Professional. Change Orders for altered Work shall include extensions of Contract Time where, in the Design Professional's opinion, such extensions are commensurate with the amount and difficulty of added Work and satisfy the requirements for extending Contract Time under Section 80.
- b.** Should the aggregate amount of altered Work exceed the 25 percent limitation hereinbefore specified, such excess altered Work shall be covered by Supplemental Agreement. If the Airport Authority and the CMR are unable to agree on a unit adjustment for any Contract Item that requires a Supplemental Agreement, the Airport Authority reserves the right to terminate the Contract with respect to the Contract Item and make other arrangements for its completion. All Supplemental Agreements shall be approved by the FAA and shall include valid wage determinations of the U.S. Secretary of Labor when the amount of the Supplemental Agreement exceeds \$2,000. However, if the CMR elects to waive the limitations on Work that increase or decrease the originally awarded Contract or any Major Contract Item by more than 25 percent, the Supplemental Agreement shall be subject to the same U.S. Secretary of Labor wage determination as was included in the originally awarded Contract.
- c.** A Change Order duly executed by the Airport Authority and the CMR provides for an all-inclusive settlement for all changes and all direct, indirect, supplemental, consequential and cumulative costs and delays, including acceleration, disruption, inefficiencies and other impacts, and the CMR's signature represents a waiver of any and all rights to file a claim on account of that instrument or the change. By executing the Change Order, the CMR represents to the Airport Authority that all

Subcontractors performing Work under the Change Order have agreed to the terms of the Change Order, and the CMR assumes full responsibility for, and shall indemnify and hold harmless the Airport Authority with respect to any claims by Subcontractors in connection with the Change Order or the performance of the Work covered by the Change Order.

- d. A Change Order duly executed by the Airport Authority, but not executed by the CMR, shall become final and binding on the CMR, unless the CMR delivers to the Airport Authority written notice of a claim within twenty-one (21) days after receipt of the Change Order executed by the Airport Authority. The CMR's claim shall be prepared in accordance with Section 50. Failure to properly file the claim in accordance with Section 50 shall conclusively be deemed as a waiver of the claim, and the Change Order shall become final and binding on the parties.
- e. The Airport Authority and the CMR shall execute Change Orders with reasonable promptness covering changes in the Work which are ordered by the Airport Authority or agreed to by the parties, or changes in the Contract Price or the Contract Time which are agreed to in total or in part. Amounts due for Work involved in a duly executed Change Order are allowable for inclusion in Applications for Payment.
- f. Change Orders or Supplemental Agreements must bear the written approval of the FAA. All Supplemental Agreements shall require consent of the CMR's Surety and separate Performance and Payment Bonds.

40-03 OMITTED ITEMS

The Design Professional may, in the Airport Authority's best interest, omit from the Work any Contract Item, except Major Contract Items. Major Contract Items may be omitted by a Supplemental Agreement. Such omission of Contract Items shall not invalidate any other Contract provision or requirement and shall be documented by a Change Order.

Should a Contract Item be omitted or otherwise ordered to be nonperformed, the CMR shall be paid for all Work performed toward completion of such Contract Item prior to the date of the order to omit such Contract Item. Payment for Work performed shall be in accordance with the subsection titled PAYMENT FOR OMITTED ITEMS of Section 90.

40-04 EXTRA WORK

Should acceptable completion of the Contract require the CMR to perform an item of Work for which no basis of payment has been provided in the original Contract or previously issued Change Orders or Supplemental Agreements, the same shall be called "Extra Work." Extra Work that is within the general scope of the Contract shall be covered by written Change Order. Change Orders for such Extra Work shall contain agreed unit prices for performing the Change Order work in accordance with the requirements of Section 90, and shall contain any adjustment to the Contract Time that, in the Design Professional's opinion, is necessary for completion of such Extra Work and satisfaction of the requirements for extending Contract Time under Section 80. See the subsection titled CLAIMS FOR ADJUSTMENTS AND DISPUTES of Section 50 for adjustments and disputes.

When determined by the Design Professional to be in the Airport Authority's best interest, he may order the CMR to proceed with Extra Work by Force Account as provided in the subsection titled PAYMENT FOR EXTRA AND FORCE ACCOUNT WORK of Section 90.

Extra Work that is necessary for acceptable completion of the Project, but is not within the general scope of the Work covered by the original Contract shall be covered by a Supplemental

Agreement as hereinbefore defined in the subsection titled SUPPLEMENTAL AGREEMENT of Section 10. See subsection titled CLAIMS FOR ADJUSTMENTS AND DISPUTES of Section 50 for adjustments and disputes.

Any claim for payment of Extra Work that is not covered by written agreement (Change Order or Supplemental Agreement) shall be rejected by the Airport Authority.

40-05 MAINTENANCE OF TRAFFIC

It is the explicit intention of the Contract that the safety of aircraft, as well as the CMR's Equipment and personnel, is the most important consideration. It is understood and agreed that the CMR shall provide for the free and unobstructed movement of aircraft in the Air Operations Areas (AOAs) of the Airport with respect to his/her own operations and the operations of all his/her Subcontractors as specified in the subsection titled LIMITATION OF OPERATIONS of Section 80. It is further understood and agreed that the CMR shall provide for the uninterrupted operation of visual and electronic signals (including power supplies thereto) used in the guidance of aircraft while operating to, from, and upon the Airport as specified in the subsection titled CONTRACTOR'S RESPONSIBILITY FOR UTILITY SERVICE AND FACILITIES OF OTHERS in Section 70.

With respect to his/her own operations and the operations of all his/her Subcontractors, the CMR shall provide marking, lighting, and other acceptable means of identifying: personnel; Equipment; vehicles; storage areas; and any work area or condition that may be hazardous to the operation of aircraft, fire-rescue equipment, or maintenance vehicles at the Airport.

When the Contract requires the maintenance of vehicular traffic on an existing road, street, or highway during the CMR's performance of Work that is otherwise provided for in the Contract, Plans, and Specifications, the CMR shall keep such road, street, or highway open to all traffic and shall provide such maintenance as may be required to accommodate traffic. The CMR shall furnish erect, and maintain barricades, warning signs, flag person, and other traffic control devices in reasonable conformity with the manual of Uniform Traffic Control Devices for Streets and Highways (published by the United States Government Printing Office), unless otherwise specified herein. The CMR shall also construct and maintain in a safe condition any temporary connections necessary for ingress to and egress from abutting property or intersecting roads, streets or highways. Unless otherwise specified herein, the CMR will not be required to furnish snow removal for such existing road, street, or highway.

The CMR shall make his/her own estimate of all labor, Materials, Equipment, and incidentals necessary for providing the maintenance of aircraft and vehicular traffic as specified in this subsection.

The cost of maintaining the aircraft and vehicular traffic specified in this subsection shall not be measured or paid for directly, but shall be included in the various Contract Items.

40-06 REMOVAL OF EXISTING STRUCTURES

All existing Structures encountered within the established lines, grades, or grading sections shall be removed by the CMR, unless such existing Structures are otherwise specified to be relocated, adjusted up or down, salvaged, abandoned in place, reused in the Work or to remain in place. The cost of removing such existing Structures shall not be measured or paid for directly, but shall be included in the various Contract Items.

Should the CMR encounter an existing Structure (above or below ground) in the Work for which the disposition is not indicated on the Plans, the Design Professional shall be notified prior to disturbing such Structure. The disposition of existing Structures so encountered shall be

immediately determined by the Design Professional in accordance with the provisions of the Contract.

Except as provided in the subsection titled RIGHTS IN AND USE OF MATERIALS FOUND IN THE WORK of this section, it is intended that all existing materials or Structures that may be encountered (within the lines, grades, or grading sections established for completion of the Work) shall be used in the Work as otherwise provided for in the Contract and shall remain the property of the Airport Authority when so used in the Work.

40-07 RIGHTS IN AND USE OF MATERIALS FOUND IN THE WORK

Should the CMR encounter any material such as (but not restricted to) sand, stone, gravel, slag, or concrete slabs within the established lines, grades, or grading sections, the use of which is intended by the terms of the Contract to be either embankment or waste, he may at his/her option either:

- a. use such material in another Contract Item, providing such use is approved by the Design Professional and is in conformance with the Contract Specifications applicable to such use; or
- b. remove such material from the Site, upon written approval of the Design Professional; or
- c. use such material for his/her own temporary construction on Site; or
- d. use such material as intended by the terms of the Contract.

Should the CMR wish to exercise option a., b., or c., he shall request the Airport Authority's and Design Professional's approval in advance of such use.

Should the Design Professional approve the CMR's request to exercise option a., b., or c., the CMR shall be paid for the excavation or removal of such material at the applicable Contract price. The CMR shall replace, at his/her own expense, such removed or excavated material with an agreed equal volume of material that is acceptable for use in constructing embankment, backfills, or otherwise to the extent that such replacement material is needed to complete the Contract Work. The CMR shall not be charged for his/her use of such material so used in the Work or removed from the Site.

Should the Design Professional approve the CMR's exercise of option a., the CMR shall be paid, at the applicable Contract price, for furnishing and installing such material in accordance with requirements of the Contract Item in which the material is used.

It is understood and agreed that the CMR shall make no claim for delays by reason of his/her exercise of option a., b., or c.

The CMR shall not excavate, remove, or otherwise disturb any material, Structure, or part of a Structure which is located outside the lines, grades, or grading sections established for the Work, except where such excavation or removal is provided for in the Contract, Plans, or Specifications.

40-08 FINAL CLEANING UP

Upon completion of the Work and before acceptance and final payment will be made, the CMR shall remove from the Site all machinery, Equipment, surplus and discarded Materials, rubbish, temporary structures, and stumps or portions of trees. He shall cut all brush and woods within the limits indicated and shall leave the Site in a neat, clean, and presentable condition. Material cleared from the Site and deposited on adjacent property will not be considered as having been disposed of satisfactorily, unless the CMR has obtained the written permission of such property owner.

The Project and the Site shall be maintained in a neat and orderly condition and kept free from accumulation of waste materials and rubbish during the entire construction period. The CMR shall be responsible for the removal of all crates, cartons and other flammable waste materials or trash from the Work areas regardless of cause at the end of each Working Day or at such other more frequent intervals as required to maintain the Site in a safe, orderly and sanitary condition. If the Project and Site are not maintained properly, the Airport Authority may have any accumulations of waste materials or trash removed and charge the cost to the CMR. Elevator shafts, electrical closets, pipe and duct shafts, chases, furred spaces and similar spaces which are generally unfinished, shall be cleaned and left free from rubbish, loose plaster, mortar drippings, extraneous construction materials, dirt and dust.

If the CMR fails to clean up at the completion of the Work, the Airport Authority may do so and the cost thereof shall, at the Airport Authority's election, either be charged directly to the CMR or the Contract Price shall be reduced accordingly.

40-09 DIFFERING SUBSURFACE OR LATENT PHYSICAL CONDITIONS

If, during the progress of the Work, the CMR discovers that the actual subsurface or other latent and unknown physical conditions encountered at the Site differ substantially from those shown or indicated in the Contract or from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Contract ("differing site conditions"), the CMR may request an equitable adjustment in the Contract Price on account of the differing site conditions. A request for such an adjustment shall be in writing and shall be delivered by the CMR to the Airport Authority within three (3) Calendar Days after such conditions are discovered and before such conditions are disturbed. Upon receipt of such a claim from the CMR, or upon its own initiative, the Airport Authority shall make an investigation of such physical conditions, and, if they differ substantially from those shown or indicated in the Contract or from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract and are of such a nature as to cause an increase or decrease in the cost of performance of the Work or a change in the construction methods required for the performance of the Work which results in an increase or decrease in the cost of the Work, the Airport Authority shall make an equitable adjustment in the Contract Price and the Contract shall be modified in writing by Change Order or Supplemental Agreement. If the CMR requires additional time for completion of the Work as a result of the existence of such differing site conditions, the CMR shall request an adjustment in the Contract Time as provided in the Contract. No adjustment in Contract Price or Contract Time shall be permitted, however, in connection with differing site conditions that were observed or disclosed (or reasonably should have been observed or disclosed) in the course of the CMR's prior inspections, tests, investigations or other preconstruction services that the CMR performed or had the opportunity to perform in connection with the Work.

40-10 EXCLUSIVE REMEDIES

The procedures for obtaining a Change Order are the CMR's exclusive remedies for costs, damages or other liabilities arising from changes in the Work, delays in the Work or any other occurrence or event, except as expressly otherwise provided in the Contract. No course of conduct or dealings between the parties, no express or implied acceptance of changes or alterations to the Work, and no claim that the Airport Authority has been unjustly enriched by an alteration or change to the Work, shall be the basis of any claim for an increase in the Contract Price or an extension of the Contract Time. Except for extensions that may be granted to the CMR in the time for preparation of Change Proposals or CMR Change Requests (or the time for submission of information or data to allow the Airport Authority or its consultants to evaluate them), no representatives of the Airport Authority are authorized to alter the procedures, waive or extend time periods, waive notices or provide for alternative procedures applicable to the CMR; and no such alteration or waiver shall be binding upon the Airport Authority unless expressly approved in writing by the Chief Executive Officer of the Airport Authority.

END OF SECTION 40

Section 50 Control of Work

50-01 AUTHORITY OF THE DESIGN PROFESSIONAL

The Airport Authority, upon the recommendation of the Design Professional, shall decide any and all questions which may arise as to the quality and acceptability of Materials furnished, Work performed, and as to the manner of performance and rate of progress of the Work. The Airport Authority, upon the recommendation of the Design Professional, shall decide all questions that may arise as to the interpretation of the Specifications or Plans relating to the Work. The Design Professional shall determine the amount and quality of the several kinds of Work performed and Materials furnished which are to be paid for under the Contract.

The Design Professional does not have the authority to accept Pavements that do not conform to FAA specification requirements.

50-02 CONFORMITY WITH PLANS AND SPECIFICATIONS

All Work and all Materials furnished shall be in reasonably close conformity with the lines, grades, grading sections, cross sections, dimensions, material requirements, and testing requirements that are specified (including specified tolerances) in the Contract, Plans or Specifications.

If the Design Professional finds the Materials furnished, Work performed, or the finished product not within reasonably close conformity with the Plans and Specifications but that the portion of the Work affected will, in his/her opinion, result in a finished product having a level of safety, economy, durability, and workmanship acceptable to the Airport Authority, he will advise the Airport Authority of his/her determination that the affected Work be accepted and remain in place. In this event, the Design Professional will document his/her determination and recommend to the Airport Authority a basis of acceptance that will provide for an adjustment in the Contract Price for the affected portion of the Work. The Design Professional's determination and recommended Contract Price adjustments will be based on good engineering judgment and such tests or retests of the affected Work as are, in his/her opinion, needed. Changes in the Contract Price shall be covered by Contract modifications (Change Order or Supplemental Agreement) as applicable.

If the Design Professional finds the Materials furnished, Work performed, or the finished product are not in reasonably close conformity with the Plans and Specifications and have resulted in an unacceptable finished product, the affected Work or Materials shall be removed and replaced or otherwise corrected by and at the expense of the CMR in accordance with the Design Professional's written orders.

For the purpose of this subsection, the term "reasonably close conformity" shall not be construed as waiving the CMR's responsibility to complete the Work in accordance with the Contract, Plans, and Specifications. The term shall not be construed as waiving the Design Professional's responsibility to insist on strict compliance with the requirements of the Contract, Plans, and Specifications during the CMR's prosecution of the Work, when, in the Design Professional's opinion, such compliance is essential to provide an acceptable finished portion of the Work.

For the purpose of this subsection, the term "reasonably close conformity" is also intended to provide the Design Professional with the authority, after consultation with the Airport Authority and FAA, to use good engineering judgment in his/her determinations as to acceptance of Work that is not in strict conformity but will provide a finished product equal to or better than that intended by the requirements of the Contract, Plans and Specifications.

The Design Professional will not be responsible for the CMR's means, methods, techniques, sequences, or procedures of construction or the safety precautions incident thereto. Where the Contract Documents refers to particular construction means, methods, techniques, sequences or procedures or indicate or imply that such are to be used in the Work, such mention is intended only to indicate that the operations of the CMR shall be such as to produce at least the quality of Work implied by the operations described, but the actual determination of whether or not the described operations may be safely and suitably employed on the Work shall be the responsibility of the CMR, who shall notify the Design Professional in writing of the actual means, methods, techniques, sequences or procedures which will be employed on the Work, if these differ from those mentioned in the Contract Documents. All loss, damage or liability, or cost of correcting defective Work arising from the employment of any construction means, methods, techniques, sequences or procedures shall be borne by the CMR, notwithstanding that such construction means, methods, techniques, sequences or procedures are referred to, indicated or implied by the Contract Documents, unless the CMR has given timely notice to the Design Professional in writing that such means, methods, techniques, sequences or procedures are not safe or suitable, and the CMR has then been instructed in writing to proceed at the Airport Authority's risk.

50-03 COORDINATION OF CONTRACT, PLANS, AND SPECIFICATIONS

The Contract, Plans, Specifications, and all referenced standards cited are essential parts of the Contract requirements. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete Work. In case of discrepancy, calculated dimensions will govern over scaled dimensions; Contract Technical Specifications shall govern over Contract General Provisions, Plans, cited standards for Materials or testing, and cited FAA advisory circulars; Contract General Provisions shall govern over Plans, cited standards for Materials or testing, and cited FAA advisory circulars; Plans shall govern over cited standards for Materials or testing and cited FAA advisory circulars. If any paragraphs contained in the Special Provisions conflict with General Provisions or Technical Specifications, the Special Provisions shall govern.

From time to time, discrepancies within cited standards for testing occur due to the timing of changing, editing, and replacing of standards. In the event the CMR discovers any apparent discrepancy within standard test methods, he shall immediately call upon the Design Professional for his/her interpretation and decision, and such decision shall be final.

The CMR shall not take advantage of any apparent error or omission on the Plans or Specifications. In the event the CMR discovers any apparent error or discrepancy, he shall immediately call upon the Design Professional for his/her interpretation and decision, and such decision shall be final.

50-04 COOPERATION OF CONTRACTOR

The CMR will be supplied with five (5) copies of the Plans and Specifications. He shall have available on the Site at all times one copy each of the Plans and Specifications. Additional copies of Plans and Specifications may be obtained by the CMR at the CMR's expense.

The CMR shall give constant attention to the Work to facilitate the progress thereof, and he shall cooperate with the Design Professional and his/her Inspectors and with other contractors in every way possible. The CMR shall have a competent Superintendent on the Work at all times who is fully authorized as his/her agent on the Work. The Superintendent shall be capable of reading and thoroughly understanding the Plans and Specifications and shall receive and fulfill instructions from the Design Professional or his/her authorized representative.

50-05 COOPERATION BETWEEN CONTRACTORS

The Airport Authority reserves the right to contract for and perform other or additional work on or near the Work covered by this Contract.

When separate contracts are let within the limits of any one project, each contractor shall conduct his/her work so as not to interfere with or hinder the progress of completion of the work being performed by other contractors. CMRs working on the same project shall cooperate with each other as directed.

Each contractor involved shall assume all liability, financial or otherwise, in connection with his/her contract and shall protect and save harmless the Airport Authority from any and all damages or claims that may arise because of inconvenience, delays, or loss experienced by him because of the presence and operations of other contractors working within the limits of the same project.

The CMR shall arrange his/her Work and shall place and dispose of the Materials being used so as not to interfere with the operations of the other contractors within the limits of the same Project. He shall join his/her Work with that of the others in an acceptable manner and shall perform it in proper sequence to that of the others.

50-06 CONSTRUCTION LAYOUT AND STAKES

The Design Professional shall establish horizontal and vertical control only. The CMR must establish all layout required for the construction of the Work. Such stakes and markings as the Design Professional may set for either his/her own or the CMR's guidance shall be preserved by the CMR. In case of negligence on the part of the CMR, or his/her employees, resulting in the destruction of such stakes or markings, an amount equal to the cost of replacing the same may be deducted from subsequent estimates due the CMR at the discretion of the Design Professional.

The CMR will be required to furnish all lines, grades and measurements from the control points necessary for the proper prosecution and control of the Work contracted for under these Specifications.

The CMR must give weekly copies of the survey notes to the Design Professional so that the Design Professional may check them as to accuracy and method of staking. All areas that are staked by the CMR must be checked by the Design Professional prior to beginning any Work in the area. The Design Professional will make periodic checks of the grades and alignment set by the CMR. Survey(s) and notes shall be provided in the following formats: paper copies and digital copies. In case of error on the part of the CMR, or his/her employees, resulting in establishing grades and/or alignment that are not in accordance with the Plans or established by the Design Professional, all construction not in accordance with the established grades and/or alignment shall be replaced without any additional cost to the Airport Authority.

No direct payment will be made, unless otherwise specified in the Contract Documents, for this labor, Materials, or other expenses therewith. The cost thereof shall be included in the price of the Bid for the various items of the Contract Documents.

Construction staking and layout includes but is not limited to:

- Clearing and grubbing perimeter staking.
- Rough grade slope stakes at 100-foot stations.
- Drainage swales slope stakes and flow line blue tops at 50-foot stations.
- Subgrade blue tops at 25-foot stations and 25-foot offset distance (max.) for the following section locations:

- a. Runway – minimum 5 per station.
 - b. Taxiways – minimum 3 per station.
 - c. Holding apron areas – minimum 3 per station.
 - d. Roadways – minimum 3 per station.
- Base course blue tops at 25 foot stations and 25-foot offset distance (max.) for the following section locations:
 - a. Runway – minimum 5 per station.
 - b. Taxiways – minimum 3 per station.
 - c. Holding apron areas – minimum 3 per station.
- Pavement areas:
 - a. Edge of Pavement hubs and tacks (for stringline by CMR) at 100-foot stations.
 - b. Between lifts at 25-foot stations for the following section locations:
 - (1) Runways – each paving lane width.
 - (2) Taxiways – each paving lane width.
 - (3) Holding areas – each paving lane width.
 - c. After finish paving operations at 50-foot stations:
 - (1) All paved areas – Edge of each paving lane prior to next paving lot.
 - d. Shoulder and safety area blue tops at 50-foot stations and at all break points with maximum of 50 foot offsets.
- Fence lines at 100-foot stations.
- Electrical and communications system locations, lines and grades including but not limited to duct runs, connections, fixtures, signs, lights, VASIs, PAPIs, REILs, wind cones, distance markers (signs), pull boxes and manholes.
- Drain lines, cut stakes and alignment on 25-foot stations, inlet and manholes.
- Painting and striping layout (pinned with 1.5 in PK nails) marked for paint CMR. (All nails shall be removed after painting).
- Laser, or other automatic control devices, shall be checked with temporary control point or grade hub at a minimum of once per 400 feet per pass (that is, paving lane).

Note: Controls and stakes disturbed or suspect of having been disturbed shall be checked and/or reset as directed by the Design Professional without additional cost to the Airport Authority.

50-07 AUTOMATICALLY CONTROLLED EQUIPMENT

Whenever batching or mixing plant Equipment is required to be operated automatically under the Contract and a breakdown or malfunction of the automatic controls occurs, the Equipment may be operated manually or by other methods for a period of 48 hours following the breakdown or malfunction, provided this method of operations will produce results which conform to all other requirements of the Contract.

50-08 AUTHORITY AND DUTIES OF INSPECTORS

Inspectors employed by the Airport Authority shall be authorized to inspect all Work done and all Material furnished. Such inspection may extend to all or any part of the Work and to the preparation, fabrication, or manufacture of the Materials to be used. Inspectors are not authorized to revoke, alter, or waive any provision of the Contract. Inspectors are not authorized to issue instructions contrary to the Plans and Specifications or to act as foreman for the CMR.

Inspectors employed by the Airport Authority are authorized to notify the CMR or his/her representatives of any failure of the Work or Materials to conform to the requirements of the Contract, Plans, or Specifications and to reject such nonconforming Materials in question until such issues can be referred to the Design Professional for his/her decision.

50-09 INSPECTION OF THE WORK

All Materials and each part or detail of the Work shall be subject to inspection by the Design Professional. The Design Professional shall be allowed access to all parts of the Work and shall be furnished with such information and assistance by the CMR as is required to make a complete and detailed inspection.

If the Design Professional requests it, the CMR, at any time before acceptance of the Work, shall remove or uncover such portions of the finished Work as may be directed. After examination, the CMR shall restore said portions of the Work to the standard required by the Specifications. Should the Work thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be paid for as Extra Work; but should the Work so exposed or examined prove unacceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be at the CMR's expense.

Any Work done or Materials used without supervision or inspection by an authorized representative of the Airport Authority may be ordered removed and replaced at the CMR's expense unless the Airport Authority's representative failed to inspect after having been given reasonable notice in writing that the Work was to be performed.

Should the Work include relocation, adjustment, or any other modification to existing facilities, not the property of the Airport Authority, authorized representatives of the owners of such facilities shall have the right to inspect such Work. Such inspection shall in no sense make any facility owner a party to the Contract, and shall in no way interfere with the rights of the parties to this Contract.

50-10 REMOVAL OF UNACCEPTABLE AND UNAUTHORIZED WORK

All Work that does not conform to the requirements of the Contract, Plans, and Specifications will be considered unacceptable, unless otherwise determined acceptable by the Design Professional as provided in the subsection titled CONFORMITY WITH PLANS AND SPECIFICATIONS of this section.

Unacceptable Work, whether the result of poor workmanship, use of defective Materials, damage through carelessness, or any other cause found to exist prior to the Final Acceptance of the Work, shall be removed immediately and replaced in an acceptable manner in accordance with the

provisions of the subsection titled CONTRACTOR'S RESPONSIBILITY FOR WORK of Section 70.

No removal work made under provision of this subsection shall be done without lines and grades having been given by the Design Professional. Work done contrary to the instructions of the Design Professional, work done beyond the lines shown on the Plans or as given, except as herein specified, or any extra work done without Airport Authority, will be considered as unauthorized and will not be paid for under the provisions of the Contract. Work so done may be ordered removed or replaced at the CMR's expense.

Upon failure on the part of the CMR to comply forthwith with any order of the Design Professional made under the provisions of this subsection, the Design Professional will have authority to cause unacceptable Work to be remedied or removed and replaced and unauthorized work to be removed and to deduct the costs (incurred by the Airport Authority) from any monies due or to become due the CMR.

50-11 LOAD RESTRICTIONS

The CMR shall comply with all legal load restrictions in the hauling of Materials on public roads beyond the limits of the Work. A special permit will not relieve the CMR of liability for damage that may result from the moving of Material or Equipment.

The operation of Equipment of such weight or so loaded as to cause damage to Structures or to any other type of construction will not be permitted. Hauling of Materials over the base course or surface course under construction shall be limited as directed. No loads will be permitted on a concrete Pavement, base, or Structure before the expiration of the curing period. The CMR shall be responsible for all damage done by his/her hauling Equipment and shall correct such damage at his/her own expense.

50-12 MAINTENANCE DURING CONSTRUCTION

The CMR shall maintain the Work during construction and until the Work is accepted. This maintenance shall constitute continuous and effective Work prosecuted day by day, with adequate Equipment and forces so that the Work is maintained in satisfactory condition at all times.

In the case of a contract for the placing of a course upon a course or Subgrade previously constructed, the CMR shall maintain the previous course or Subgrade during all construction operations.

All costs of maintenance work during construction and before the Project is accepted shall be included in the unit prices bid on the various Contract Items, and the CMR will not be paid an additional amount for such work.

50-13 FAILURE TO MAINTAIN THE WORK

Should the CMR at any time fail to maintain the Work as provided in the subsection titled MAINTENANCE DURING CONSTRUCTION of this section, the Design Professional shall immediately notify the CMR of such noncompliance. Such notification shall specify a reasonable time within which the CMR shall be required to remedy such unsatisfactory maintenance condition. The time specified will give due consideration to the exigency that exists.

Should the CMR fail to respond to the Design Professional's notification, the Airport Authority may suspend any Work necessary for the Airport Authority to correct such unsatisfactory maintenance condition, depending on the exigency that exists. Any maintenance cost incurred by the Airport Authority, shall be deducted from monies due or to become due the CMR.

50-14 PARTIAL ACCEPTANCE

If at any time during the prosecution of the Project the CMR substantially completes a usable unit or portion of the Work, the occupancy of which will benefit the Airport Authority, he may request the Design Professional to make final inspection of that unit. If the Design Professional finds upon inspection that the unit has been satisfactorily completed in compliance with the Contract, he may accept it as being completed, and the CMR may be relieved of further responsibility for that unit. Such partial acceptance and beneficial occupancy by the Airport Authority shall not void or alter any provision of the Contract. See also subsection titled OPENING SECTIONS OF THE WORK TO TRAFFIC of Section 70.

50-15 FINAL ACCEPTANCE

- a. Upon due notice from the CMR of presumptive completion of the entire Project, the Design Professional and Airport Authority will make an inspection. If all construction provided for and contemplated by the Contract is found to be completed in accordance with the Contract, Plans, and Specifications and all documentation, and other matters are resolved as provided in this subsection 50-15, such inspection shall constitute the final inspection. The Design Professional shall notify the CMR in writing of Final Acceptance as of the date of the final inspection.

If, however, the inspection discloses any Work, documentation, or matters, in whole or in part, as being unsatisfactory, the Design Professional will give the CMR the necessary instructions for correction of same and the CMR shall immediately comply with and execute such instructions. Upon correction of the Work, another inspection will be made which shall constitute the final inspection, provided the Work has been satisfactorily completed. In such event, the Design Professional will make the Final Acceptance and notify the CMR in writing of this acceptance as of the date of final inspection.

- b. Prior to and as a condition precedent to Final Acceptance, all of the following matters shall have been resolved and documents and items shall have been received and approved in writing by the Airport Authority:
 - (1) final documents of similar nature to those required by the Contract Documents in connection with any Application for Payment hereunder;
 - (2) all final Project Approvals (including, without limitation, the approval of the Airport Authority's insurance underwriters, if required), certificates and affidavits (including, without limitation, certificates in respect of plumbing, sprinklers, electrical systems and life safety systems as required by governmental authorities) and authorizations for use and occupancy of the Project required by any authority having jurisdiction, including unconditioned permanent and full certificates of use or occupancy for all portions of the Project and any other necessary use permits or inspection certificates, unless those permits, approvals, certificates, affidavits and authorizations are not received by the Airport Authority solely for reasons as to which the CMR has no responsibility;
 - (3) formally prepared record documents, "as-built" drawings, records and related data including all field notes and QA/QC test reports of all the Work (drawings shall be in reproducible form) all in accordance with the requirements of the Contract Documents;

- (4) all operating and maintenance manuals as required by the Contract Documents, parts lists, the final version of the Project Directory, and repair source lists;
- (5) all guarantees and warranties to which the Airport Authority is entitled under the Contract Documents, using a guarantee form acceptable to the Airport Authority;
- (6) the Design Professional's certification that the Work is complete;
- (7) a satisfactory report by the Contract Documents or which is approved by the Design Professional and the Airport Authority's Representative that all mechanical systems have been and are properly balanced;
- (8) confirmation that all practical orientation and operating instructions for all Materials, systems, and Equipment have been satisfactorily completed, and that all required training of Airport Authority's personnel has been completed;
- (9) if liability insurance is provided by the CMR, a certificate of insurance evidencing products liability and completed operations insurance coverage for the six-year period following Final Completion;
- (10) delivery of all spare parts required to be submitted pursuant to the Contract Documents;
- (11) all final payroll information or records required by Applicable Laws or the Contract Documents and any outstanding DBE certifications; and
- (12) as applicable, any long term leases, contracts, or maintenance agreements.

50-16 CLAIMS FOR ADJUSTMENT AND DISPUTES

If for any reason the CMR deems that a change has occurred by reason of any Work performed or Materials furnished, or by reason of any direction or interpretation by the Airport Authority or the Design Professional, or by reason of any other event, circumstance or occurrence, or if the CMR wishes to make a claim for damages by reason of any act or omission of the Airport Authority or the Design Professional, including any order by the Airport Authority to stop the Work where the CMR was not at fault, or if for any other reason the CMR believes that it is necessary to adjust the Contract Price or the Contract Time or otherwise modify the terms of the Contract Documents, the CMR shall submit to the Airport Authority a written contractor change notice ("CMR Change Notice"). The CMR Change Notice must be submitted as soon as practicable after the occurrence of the event or circumstance upon which the CMR Change Request is based, and in any event not later than five (5) days following the occurrence of the event or circumstance upon which the CMR Change Request is based, and shall contain as much information concerning the event or circumstance and its effect on cost or schedule as is reasonably available to the CMR within such time period.

A "CMR Change Request" must: be in writing, must detail the character and scope of the Work involved and provide clear and detailed justification that a change has occurred or that the CMR is otherwise entitled to an adjustment in the Contract Price or the Contract Time, and shall include the applicable Contract references supporting the CMR's claim, the nature of the costs or schedule extension involved and, in so far as possible, the amount of the potential claim or schedule extension, and the efforts taken and to be taken by the CMR to prevent or minimize costs or schedule extension. The CMR Change Request must confirm the character and scope

of work, and all elements of pricing and impact the amounts included coverall direct, supplemental, indirect, consequential, serial and cumulative costs and delays, as applicable and those costs and delays would be or were necessarily incurred, despite the CMRs' reasonable and diligent efforts to mitigate them. on schedule, and shall certify that The CMR Change Request must be delivered to the Airport Authority within 30 days of the date of the CMR Change Notice.

All CMR Change Requests submitted by the CMR shall provide sufficient detail for the Airport Authority to understand the basis for, and amount of, the adjustment in compensation or schedule extension requested in the CMR Change Request. The CMR shall furnish, within five (5) Working Days after request from the Airport Authority or the Design Professional in writing, such further information and details including, but not limited to, books of account, Records and other documents of the CMR and of its Subcontractors, as may be required by the Airport Authority or the Design Professional to determine the facts or issues of contention involved in the CMR Change Request. The CMR's failure to deliver such information shall be sufficient cause for rejecting any CMR Change Request, unless such time is extended in writing by the Airport Authority.

If the Airport Authority determines based on the CMR Change Request that a change in the Work has occurred, the Airport Authority may request any additional information necessary to evaluate the CMR's proposal. If the Airport Authority determines that no change has occurred, the Airport Authority's determination shall be final and binding on the CMR unless the CMR objects to such determination by written notice to the Airport Authority within twenty-one (21) days after receipt of notice of said determination. If the Airport Authority fails to notify the CMR as to its determination with respect to a CMR Change Request within 30 days after receipt of a full and complete CMR Change Request as provided above, such failure shall be deemed to constitute a determination by the Airport Authority that no change has occurred, and such deemed determination shall be effective as of the last day of such 30-day period. The CMR shall continue to diligently perform the affected Work and comply with any decision of the Airport Authority, pending final resolution of the matter.

Failure of the CMR to comply strictly with the notice requirements, procedures and time periods set forth in this Section shall be conclusively deemed to constitute a waiver by the CMR of any claim or any other right to an adjustment of the Contract Price or the Contract Time with respect to any Work or any other occurrence, event or circumstance which is the subject of a CMR Change Request, Change Proposal or other claim of the CMR.

Nothing in this subsection shall be construed as a waiver of the CMR's right to dispute final payment based on differences in measurements or computations.

50-17 ADDITIONAL PROCEDURES; CORRECTION OF WORK

- a.** The CMR shall promptly correct all Work rejected by the Design Professional or the Airport Authority as defective or as failing to conform to the Contract, whether observed before or after Substantial Completion or Final Completion and whether or not fabricated, installed or completed. The CMR shall bear all costs of correcting such rejected Work, including compensation for the Design Professional's and other Airport Authority's consultants' additional services made necessary thereby, and any other loss, cost or damage to the Airport Authority resulting from such failure or defect.
- b.** Without limiting any other rights which the Airport Authority has hereunder or pursuant to law, if, within the Correction Period (as hereinafter defined) after the date of Substantial Completion of the Work or portion thereof designated by the

Airport Authority (provided, that with respect to punchlist work the Correction Period shall commence upon completion of such punchlist items), or within the Correction Period after acceptance by the Airport Authority of designated Equipment, or within such longer period of time as may be prescribed by law or by the terms of any applicable guarantee or warranty required by or referred to in the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the CMR shall correct such defective Work promptly after receipt of a written notice from the Airport Authority to do so, and shall reimburse the Airport Authority for any expenses it shall have incurred in inspecting or testing such portion of the Work. As used herein, the "Correction Period" shall mean (i) in the case of Materials and Equipment, one year, or such longer period as may be prescribed by law or by the terms of any special guarantee or warranty required by or referred to in the Contract Documents or provided by the vendor, and (ii) in the case of workmanship, two years. The obligations provided in this subsection 50-17 shall survive termination of the Contract and the making of final payment hereunder. Any corrective action taken within the warranty period shall extend the warranty period for a like period of time as appropriate pursuant to (i) and (ii) hereinabove.

- d.** If the CMR does not proceed with the correction of defective or nonconforming Work within a reasonable period of time (fixed by the Airport Authority in writing) after receipt of a written notice from the Design Professional or the Airport Authority to correct such Work, the Airport Authority may remove it and may store the Materials or Equipment at the expense of the CMR. If the CMR does not pay the cost of such removal and storage within ten (10) days thereafter, the Airport Authority may upon ten (10) additional days' written notice sell such Work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the CMR, including compensation for the Design Professional's and Airport Authority's consultants' additional services made necessary thereby. If such proceeds of sale do not cover all costs which the CMR should have borne, the difference shall be charged to the CMR and an appropriate Change Order or through appropriate legal remedies. If the payments then or thereafter due the CMR are not sufficient to cover such amount, the CMR shall pay the difference to the Airport Authority.
- e.** The CMR shall bear the cost of making good all work of the Airport Authority or separate contractors destroyed or damaged by such correction or removal.
- f.** Without limitation of the foregoing, no additional charge shall be made by the CMR or by any Subcontractor for attending meetings at the Site to diagnose problems or to instruct the Airport Authority's personnel in the proper operation or maintenance of the Work, or for making initial or seasonal adjustments (not including normal maintenance) of mechanical systems or other movable work during the period of one year following Substantial Completion. The CMR shall provide such service promptly upon notice from the Airport Authority. In case of emergency, service shall be provided as necessary to avoid loss or damage or to maintain normal use of the premises. The CMR shall furnish to the Design Professional and to the Airport Authority a list of names and telephone numbers, with a back-up name and telephone number, covering each area of potential emergency.
- g.** Nothing contained in this subsection 50-17 shall be construed to establish a period of limitation with respect to any other obligation which the CMR might have under

the Contract Documents, or under law. The establishment of the Correction Period relates only to the specific obligation of the CMR to correct the Work, and has no relationship to the time within which its obligation to comply with the Contract Documents may be enforced, nor to the time within which proceedings may be commenced to establish the CMR's liability with respect to its obligations, other than its obligations under this Section 50 to correct the Work.

50-18 OPERATING AND MAINTENANCE MANUALS; TRAINING

- a.** The CMR shall prepare and deliver to the Design Professional four (4) copies (or such greater number may be requested by the Airport Authority) of all operating and maintenance manuals for the Project. The manuals shall contain full information for each item of mechanical, electrical or other operating Equipment, copies of warranties therefore, schematic diagrams of control systems, circuit directories for each electric and communications panel board, and charts showing the tagging of all valves. The CMR shall obtain and include in the manuals reduced scale photocopies of the final, as-built electrical, HVAC, mechanical and plumbing record Drawings. Each volume of the manual shall be clearly indexed, and shall include a directory of all Subcontractors and maintenance contractors, indicating the area of responsibility of each, and the name and telephone number of the responsible member of each organization. The volumes shall be bound in three-ring binders with tabbed sections and a table of contents. Typewritten, drawn or photographic material shall be protected by clear plastic sleeves. The operating and maintenance manuals shall be submitted to the Airport Authority and the Design Professional in advance in draft form, allowing sufficient time for review and comment. The CMR shall make revisions to the manuals as necessary to address the comments received, and the final manuals (number of copies as directed by the Airport Authority) shall be delivered to the Airport Authority prior to, and as a condition precedent to, final payment.
- b.** The CMR shall arrange for instruction for the Airport Authority's employees and Airport Authority's Representatives (or others designated by the Airport Authority) in accordance with all specific requirements identified in the Contract Documents and so as to insure proper operation of all Equipment furnished. The CMR and, in particular, the fire protection, ventilating and electrical Subcontractors shall not assume that the Airport Authority's employees (or such other persons) possess special expertise or have had any previous experience whatsoever in the operation and maintenance of the Equipment. It is the intent of this subparagraph (b) to require the CMR and the applicable Subcontractors to furnish as much detailed instruction as is required by the Contract Documents to educate reasonably intelligent personnel in the proper use of the Equipment. This instruction shall be provided by the manufacturer's representative for each item of Equipment. In some cases, this may require several visits to the Project by those responsible for the instruction.

50-19 CONTRACTOR'S WARRANTIES

- a.** The CMR guarantees and warrants to the Airport Authority that all Materials and Equipment furnished under the Contract Documents will be new and of recent manufacture unless otherwise expressly required or permitted by the Contract Documents, and that all Work will be performed in accordance with Good Industry Practices and that all workmanship and completed Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All

Work not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective or as failing to conform to the Contract Documents, and shall be repaired, replaced or otherwise corrected by the CMR upon request by the Airport Authority.

- b.** It is specifically agreed that the CMR's warranties of Materials, Equipment and labor under this subsection 50-19 and all other warranties, guarantees, responsibilities and liabilities of the CMR under the Contract Documents or otherwise provided under law, shall apply to products and Equipment, if any, contracted for and furnished by the Airport Authority and assigned by the Airport Authority to the CMR pursuant to the provisions of the Contract as fully as if such products and Equipment had been purchased directly by the CMR for incorporation in the Work. The CMR acknowledges that it has received and approved or will carefully review and approve all information and Specifications for such Airport Authority-furnished products and Equipment sufficient so as to permit the CMR to make this agreement. Such Specifications for Airport Authority-furnished products and Equipment shall be considered a part of the Contract Documents, and such Airport Authority-furnished products and Equipment, upon delivery to and acceptance by the CMR, shall become part of the Work; provided, however, that with respect to Airport Authority-furnished products and Equipment, the Airport Authority shall only be entitled to so much of the manufacturer's warranty as may remain in effect at the time of furnishing of the product or Equipment.
- c.** Without in any way derogating the CMR's representations and warranties in this subsection 50-19 and other obligations with respect to the Work, the CMR shall (i) obtain and preserve for the benefit of the Airport Authority manufacturer's warranties on Materials, fixtures and Equipment incorporated into the Work, (ii) if requested by the Airport Authority, prepare and execute a written guarantee and warranty applicable to all phases of the Work in accordance with the provisions of this subsection 50-19 and all other applicable provisions of the Contract Documents pertaining to warranties and guarantees (said warranty period shall be two years from the date of Final Completion), (iii) secure and pass through to the Airport Authority written guarantees and warranties prepared in a similar manner from each Subcontractor engaged in the performance of the Work, and (iv) prior to Substantial Completion, shall deliver three (3) (or such greater number as may be directed by the Airport Authority) complete sets of all such guarantees and warranties to the Design Professional or the Airport Authority's Representative (as directed by the Airport Authority) for review. Such delivery shall constitute the CMR's guaranty to the Airport Authority that such warranties will be performed in accordance with their terms and conditions. The CMR hereby assigns to the Airport Authority all of the CMR's rights and interest in all Subcontractors' and manufacturers' warranties and guaranties, and such assignment shall be deemed effective whether or not such warranties or guaranties are delivered to the Airport Authority, whether or not such warranties or guaranties expressly permit such assignment, and whether or not any further instrument specifically assigning such warranties and guaranties is executed by the CMR. To the extent that any such Subcontractors' and manufacturers' warranties and guaranties extend beyond the period during which the CMR's warranty is in effect, the CMR shall actively assist the Airport Authority, as requested by the Airport Authority and without additional charge, in enforcing any such warranties or guaranties. Nothing contained in this subsection 50-19 or elsewhere in the Contract Documents shall be interpreted to limit, reduce or waive any manufacturers' warranties. Unless otherwise stated in

the Specifications, all specified warranty periods shall commence upon Substantial Completion of the Work.

- d. The establishment of a Correction Period pursuant to subsection 50-17 of this Section 50 (or other provisions of the Contract Documents) shall not limit the CMR's liability for defective or non-conforming Work, whether or not discovered during such Correction Period.
- e. Any defects must be cured at the latest upon receipt of a written notice or request to do so by the Airport Authority, upon the recommendation of the Design Professional, and such corrective work shall be performed in a manner which shall not substantially restrict use of the facility. The CMR shall, in addition to the actual cost of repair or replacement, be liable for all costs directly associated with the curing of such defect, and shall restore the Site to proper condition following such cure at its own cost. Any parts that are replaced shall revert to the ownership of the CMR and shall be promptly removed by the CMR.
- f. If an interruption in the operation or use of any portion of the Project is caused by a defect or the correction thereof, the warranty period for such portion of the Work shall be extended by a period equal to the length of the interruption of operation or use.
- g. In the event that any work is performed to correct, repair or remedy any portion of the Work pursuant to any warranty or guarantee provided under the Contract Documents or otherwise available to the Airport Authority, all such work, and all Materials, Equipment, supplies, appliances, fixtures and specialty devices requiring replacement pursuant to the CMR's warranty under this subsection 50-19 or during any extended warranty period or Correction Period specified in the Contract Documents, shall be subject to a supplementary guarantee and warranty extending the warranty period or Correction Period to cover all such work and all such items for the full warranty period or Correction Period specified in the Contract Documents (but not more than two years beyond the original warranty period or Correction Period), beginning as of the date of acceptance of each such replacement item or element of Work.
- h. If parts which fall under the scope of the warranty obligations under this Contract Documents are changed or replaced by the Airport Authority using existing reserve or spare parts inventories, such inventories shall be replaced by the CMR at no cost to the Airport Authority.
- i. In the event the CMR fails or refuses to repair, replace or otherwise cure defective Work as required by the terms of this subsection 50-19 within a reasonable period of time, or if urgency exists in an individual case, the Airport Authority is entitled, at its discretion, to perform the necessary repair, replacement or other corrective work itself or using other contractors, in which case all costs associated therewith shall be reimbursed by the CMR to the Airport Authority. The warranty obligations of the CMR shall not be affected thereby except in the event that the work is not properly executed by the Airport Authority.
- j. The warranty and guarantee provisions of this subsection 50-19 shall be in addition to and not in limitation of the provisions of this Section 50 or any other warranties, guarantees or remedies provided by law or the Contract Documents.
- k. The Airport Authority shall have the right to assign portions or all of its rights in connection with the CMR's warranties to third parties. Such third parties shall,

following such an assignment, be entitled to make warranty claims directly against the CMR.

END OF SECTION 50

Section 60 Control of Materials

60-01 SOURCE OF SUPPLY AND QUALITY REQUIREMENTS

The Materials used on the Work shall conform to the requirements of the Contract, Plans, and Specifications. Unless otherwise specified, such Materials that are manufactured or processed shall be new (as compared to used or reprocessed).

In order to expedite the inspection and testing of Materials, the CMR shall furnish complete statements to the Design Professional as to the origin, composition, and manufacture of all Materials to be used in the Work. Such statements shall be furnished promptly after execution of the Contract but, in all cases, prior to delivery of such Materials.

At the Design Professional's option, Materials may be approved at the source of supply before delivery is stated. If it is found after trial that sources of supply for previously approved Materials do not produce specified products, the CMR shall furnish Materials from other sources.

The CMR shall furnish airport lighting Equipment that conforms to the requirements of cited Materials Specifications. In addition, where an FAA specification for airport lighting equipment is cited in the Plans or Specifications, the CMR shall furnish such Equipment that is:

- a.** Listed in FAA Advisory Circular (AC) 150/5345-53, Airport Lighting Equipment Certification Program, and Addendum that is in effect on the date of Advertisement; and,
- b.** Produced by the manufacturer as listed in the Addendum cited above for the certified equipment part number.

The airport lighting Equipment described in the Specifications and Contract Documents is required for this Contract and is to be furnished by the CMR in accordance with the requirements of this subsection.

60-02 SAMPLES, TESTS, AND CITED SPECIFICATIONS

Unless otherwise designated, all Materials used in the Work shall be inspected, tested, and approved by the Design Professional before incorporation in the Work as provided in this Section 60. Any Work in which untested Materials are used without approval or written permission of the Design Professional shall be performed at the CMR's risk. Materials found to be unacceptable and unauthorized will not be paid for and, if directed by the Design Professional, shall be removed at the CMR's expense.

Unless otherwise designated, tests in accordance with the cited standard methods of ASTM, AASHTO, Federal Specifications, Commercial Item Descriptions, and all other cited methods, which are current on the date of Advertisement for Bids, will be made by and at the expense of the Design Professional.

The testing organizations performing on-site field tests shall have copies of all referenced standards on the construction Site for use by all technicians and other personnel, including the CMR's representative at his/her request. Unless otherwise designated, Samples will be taken by a qualified representative of the Design Professional. All Materials being used are subject to inspection, test, or rejection at any time prior to or during incorporation into the Work. Copies of all tests will be furnished to the CMR's representative at his/her request.

The CMR shall employ a testing organization to perform all CMR required tests. The CMR shall submit to the Design Professional resumes on all testing organizations and individual persons who will be performing the tests. The Design Professional will determine if such persons are qualified. All the test data shall be reported to the Design Professional after the results are known. A legible, handwritten copy of all test data shall be given to the Design Professional daily, along with printed reports, in an approved format, on a weekly basis. After completion of the Project, and prior to final payment, the CMR shall submit a final report to the Design Professional showing all test data reports, plus an analysis of all results showing ranges, averages, and corrective action taken on all failing tests.

60-03 CERTIFICATION OF COMPLIANCE

The Design Professional may permit the use, prior to sampling and testing, of certain Materials or assemblies when accompanied by manufacturer's certificates of compliance stating that such Materials or assemblies fully comply with the requirements of the Contract. The certificate shall be signed by the manufacturer. Each lot of such Materials or assemblies delivered to the Work must be accompanied by a certificate of compliance in which the lot is clearly identified.

Materials or assemblies used on the basis of certificates of compliance may be sampled and tested at any time and if found not to be in conformity with Contract requirements will be subject to rejection whether in place or not.

The form and distribution of certificates of compliance shall be as approved by the Design Professional.

When a Material or assembly is specified by "brand name or equal" and the CMR elects to furnish the specified "brand name," the CMR shall be required to furnish the manufacturer's certificate of compliance for each lot of such Material or assembly delivered to the Work. Such certificate of compliance shall clearly identify each lot delivered and shall certify as to:

- a. conformance to the specified performance, testing, quality or dimensional requirements; and
- b. suitability of the Material or assembly for the use intended in the Contract Work.

Should the CMR propose to furnish an "or equal" material or assembly, he shall furnish the manufacturer's certificates of compliance as hereinbefore described for the specified brand name material or assembly. However, the Design Professional shall be the sole judge as to whether the proposed "or equal" is suitable for use in the Work. Any additional cost, or any loss or damage arising from the substitution or proposed substitution of any Materials, Equipment or methods from those originally specified shall be borne by the CMR, including, without limitation, costs of evaluating substitutions, whether or not approved, costs of any structural, mechanical, or other changes necessary to the accommodate substitute Materials or Equipment, and costs of modifying documents and additional fees of the Design Professional or the Airport Authority's other consultants, notwithstanding approval or acceptance of such substitution by the Airport Authority or the Design Professional unless the substitution was made at the request or direction of the Design Professional or Airport Authority.

The Design Professional reserves the right to refuse permission for use of Materials or assemblies on the basis of certificates of compliance.

60-04 PLANT INSPECTION

The Design Professional or his/her authorized representative may inspect, at its source, any specified Material or assembly to be used in the Work. Manufacturing plants may be inspected from time to time for the purpose of determining compliance with specified manufacturing methods

or Materials to be used in the Work and to obtain Samples required for his/her acceptance of the Material or assembly.

Should the Design Professional conduct plant inspections, the following conditions shall exist:

- a. The Design Professional shall have the cooperation and assistance of the CMR and the producer with whom he has contracted for Materials.
- b. The Design Professional shall have full entry at all reasonable times to such parts of the plant that concern the manufacture or production of the Materials being furnished.
- c. If required by the Design Professional, the CMR shall arrange for adequate office or working space that may be reasonably needed for conducting plant inspections. Office or working space should be conveniently located with respect to the plant.

It is understood and agreed that the Airport Authority shall have the right to retest any Material that has been tested and approved at the source of supply after it has been delivered to the Site. The Design Professional shall have the right to reject only Material which, when retested, does not meet the requirements of the Contract, Plans, or Specifications.

60-05 DESIGN PROFESSIONAL'S FIELD OFFICE

The CMR shall furnish and maintain, for the duration of the Project one building for the use of the Design Professional and Inspectors as a field office. This facility shall be an approved weatherproof building meeting the current State Highway Specifications (for example, Class I Field Office or Type C Structure). This building shall be located conveniently near to the construction Site and shall be separate from any building used by the CMR. A land line telephone and answering machine shall be provided. The CMR shall be responsible for payment of the basic monthly charge and local calls only. Any long distance tolls shall be the responsibility of the caller. The CMR shall furnish FAX machine, photocopy machine, scanner, internet access/connection with wireless router and hub, water, sanitary facilities, heat, air conditioning, and electricity. Refer to Contract Documents for any additional Equipment/furnishing requirements. No direct payment will be made for this building or labor, materials, ground rental, or other expense in connection therewith. The cost hereof shall be included in the price bid for the various items of the Contract. The CMR and his/her Superintendent shall provide all reasonable facilities to enable the Design Professional to inspect the workmanship and Materials entering into the Work.

60-06 STORAGE OF MATERIALS

Materials shall be so stored as to assure the preservation of their quality and fitness for the Work. Stored Materials, even though approved before storage, may again be inspected prior to their use in the Work. Stored Materials shall be located so as to facilitate their prompt inspection. The CMR shall coordinate the storage of all Materials with the Design Professional. Materials to be stored on Airport property shall not create an obstruction to air navigation nor shall they interfere with the free and unobstructed movement of aircraft. Unless otherwise shown on the Plans, the storage of Materials and the location of the CMR's plant and parked Equipment or vehicles shall be as directed by the Design Professional.

60-06.01 STORAGE OF MATERIALS OFF-SITE

- a. Off-site private property shall not be used for storage purposes without written permission of the owner or lessee of such property. The CMR shall make all arrangements and bear all expenses for the storage of Materials on private property. Upon request, the CMR shall furnish the Design Professional a copy of the property owner's permission.

- b.** All storage sites on private or Airport property shall be restored to their original condition by the CMR at his/her entire expense, except as otherwise agreed to (in writing) by the owner or lessee of the property.
- c.** The CMR shall obtain prior written approval from the Airport Authority for permission to store Materials or Equipment to be incorporated in the Work, for which progress payments will be requested, at off-site locations. Any and all charges for storage, including insurance, shall be borne solely by the CMR. Before approval, the Airport Authority may require, without limitation (i) evidence that the off-site location is properly secure, (ii) proper proof of insurance and proof of satisfactory contractual arrangements for transportation to the Site, and (iii) a certificate from the CMR stating:

 - (1)** the name of the Subcontractor (or the CMR) that leases or owns the warehouse or other storage facility;
 - (2)** the location of such storage facility, including the specific storage space, and a certification that the CMR has visited such location, verified the storage of such Material or Equipment therein or thereon (including confirmation that the Materials or Equipment are marked with the Project name, Project number, and control number, and segregated as provided below), and verified payment of all storage charges through delivery of the Materials or Equipment to the Work Site;
 - (3)** the date(s) on which the Material or Equipment is first stored at such facility;
 - (4)** description of the Materials or Equipment stored, including quantities, types, manufacturers and other identification information, such as serial numbers; and
 - (5)** the storage facilities climate control systems maintain the storage space environment in a manner that meets or exceeds the manufacturer's requirement for storage of Materials or Equipment, where applicable.
- d.** The CMR shall furnish to the Airport Authority, not less often than once per month, a current inventory of all Materials or Equipment being stored at any off-site location.
- e.** The CMR and Subcontractors shall mark each sealed carton or other item with the name of the Project and the Airport Authority, and all Materials or Equipment stored off-site shall be segregated to the extent required by the Airport Authority or the Design Professional.
- f.** Payment for Materials or Equipment stored off-site shall be at the discretion of the Airport Authority. Title to Materials or Equipment stored off-site shall be transferred at the time at which the Airport Authority pays for them, free of any lien or other interest of the Supplier or any other lien or encumbrance. Notwithstanding such transfer of title, the CMR and Subcontractors shall retain sole care, custody and control of, and shall have complete responsibility for the security and protection of, all Materials or Equipment included in any Application for Payment which are stored at locations other than the Site, and the CMR assumes all risk of loss or damage to such Materials or Equipment, and the CMR shall hold harmless the Airport Authority from and against all liabilities arising out of or resulting from loss or damage, from any cause, to such Materials or Equipment for which

payment is requested, including liens, security interests or other claims of any kind by Suppliers or other third parties relating to such Materials or Equipment.

60-07 UNACCEPTABLE MATERIALS

Any Material or assembly that does not conform to the requirements of the Contract, Plans, or Specifications shall be considered unacceptable and shall be rejected. The CMR shall remove any rejected Material or assembly from the Site of the Work, unless otherwise instructed by the Design Professional.

Rejected Material or assembly, the defects of which have been corrected by the CMR, shall not be returned to the Site of the Work until such time as the Design Professional has approved its use in the Work.

60-08 AIRPORT AUTHORITY FURNISHED MATERIALS

The CMR shall furnish all Materials required to complete the Work, except those specified herein (if any) to be furnished by the Airport Authority. Airport Authority-furnished Materials shall be made available to the CMR at the location specified herein.

All costs of handling, transportation from the specified location to the Site of Work, storage, and installing Airport Authority-furnished Materials shall be included in the unit price bid for the Contract Item in which such Airport Authority-furnished Material is used.

After any Airport Authority-furnished Material has been delivered to the location specified, the CMR shall be responsible for any demurrage, damage, loss, or other deficiencies that may occur during the CMR's handling, storage, or use of such Airport Authority-furnished Material. The Airport Authority will deduct from any monies due or to become due the CMR any cost incurred by the Airport Authority in making good such loss due to the CMR's handling, storage, or use of Airport Authority-furnished Materials.

60-09 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

- a. The CMR shall prepare or review, approve and submit to the Design Professional, sufficiently in advance and in such sequence as to cause no delay in the Work or in the work of the Airport Authority or any separate contractor, all Shop Drawings, Product Data and Samples or other submittals required by the Contract. The CMR shall deliver copies of all Shop Drawings, Product Data and Samples or other submittals, and all re-submittals, corrections and changes in any submittals, to the Design Professional. The Airport Authority may request that other consultants or staff of the Airport Authority review any or all submittals in connection with the Project. In such event, the CMR shall cooperate with and provide for such review by such other parties in the same manner as provided in this subsection 60-09 with regard to review of submittals by the Design Professional. Copies of submittals provided to the Airport Authority's Representative or such other parties as provided herein shall be in addition to the multiple copies to be provided to the Design Professional as provided below. All provisions contained in this subsection 60-09 or elsewhere in the Contract concerning the form and content of submittals shall apply with respect to the copies of submittals to be provided to the Airport Authority's Representative or such other parties unless otherwise instructed.
- b. Within ten (10) Calendar Days after the date of execution of the Contract, the CMR shall submit to the Airport Authority and the Design Professional a preliminary schedule of submittals. The CMR shall then meet with the Airport Authority and the Design Professional to discuss the schedule of submittals and shall prepare and promptly submit (in accordance with any time periods provided elsewhere in

the Contract) for approval a final schedule of submittals for the Work. The schedule of submittals shall contain a Shop Drawing schedule and a Sample schedule.

- c. The schedule of submittals shall list all of the submissions required of each trade; the item, description, type, quantity and size (where applicable) of each submission; and the following dates, as estimated:
 - (1) Required date of submission.
 - (2) Required date of approval.
 - (3) Estimated date of beginning fabrication or manufacture of product (where applicable).
 - (4) Required date of submission of product to testing laboratory.
 - (5) Required date of testing laboratory approval.
 - (6) Required date for delivery of product to Site.
 - (7) Required date for beginning of installation of product.

The schedule shall allow adequate time for review by the Design Professional or the Airport Authority and their consultants, not less than any time periods specified elsewhere in the Contract, including time for anticipated resubmittal(s) as necessary prior to fabrication. The Airport Authority or the Design Professional will not be responsible for Work performed in shop or field prior to approval. Long-lead items requiring expedited action shall be clearly indicated. The schedule shall be reviewed and resubmitted as necessary to conform to approved modifications to the Project Schedule, and shall be updated as may be required by the Airport Authority or the Design Professional. Submissions shall be made in accordance with the approved schedule of submittals; any time periods for review of submissions by the Design Professional shall not be applicable to any submission not submitted in accordance with the approved schedule of submittals.

- d. The CMR shall submit one clear and legible reproducible copy and one black-line print of each Shop Drawing, with as many additional prints as the Design Professional may request. Shop Drawings shall be rolled in mailing tubes, not folded. The CMR shall submit five (5) copies of manufacturer's Product Data unless otherwise instructed by the Design Professional. Each submission shall be accompanied by a transmittal form in a format determined by the Design Professional.
- e. Samples shall be identified by a permanent label giving the manufacturer's name, trade name, material type, intended application, Project name, Project number, control number, CMR's name, Subcontractor's or Supplier's name and date of submission. Manufacturer's installation directions shall be provided with each Sample. Each submission shall be accompanied by a transmittal form in a format determined by the Design Professional. The CMR shall prepay all transportation costs and deliver Samples to the Design Professional's office, Site or testing laboratory as directed by the Design Professional. Samples will be kept until Substantial Completion and will not thereafter be returned unless return is requested at the time of submission; all packing and transportation costs for the return of Samples shall be paid by the CMR.

- f.** Samples shall be of adequate size to permit proper evaluation of the material by the Design Professional. Where variations in color, texture, dimensions or other characteristics are to be expected, the CMR shall submit Samples showing the maximum range of variation. Materials exceeding the range of variation of the approved Samples shall not be used on the Work.
- g.** If both Shop Drawings and Product Data or Samples are required for the same item, the Design Professional may require both to be submitted before approving either.
- h.** The CMR's review of Shop Drawings, Product Data and Samples shall include, without limitation, verification of the following:

 - (1)** Proper title, original date, drawing number (which shall not be changed on resubmitted drawings), revision numbers and dates, designation of Project (name and CIP number), CMR, Subcontractor and/or Supplier.
 - (2)** Identification of Shop Drawings, Product Data or Samples by Specification section and subsection or paragraph where appropriate and identification of Contract Drawings by number and detail.
 - (3)** Coordination with work of other trades.
- i.** By preparing or approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the CMR thereby represents that it has verified the items referred to in subsection (h) above, and has determined and verified all Materials, requirements for the implementation of the Work, dimensions, quantities, field measurements, details, relations to existing Work, coordination with Work to be installed later, coordination with information on previously accepted Shop Drawings, Product Data, Samples or similar submittals and compliance with all the requirements of the Contract. If requested by the Design Professional, the foregoing representations shall be repeated in full on each submittal as part of the CMR's approval stamp. The accuracy and completeness of all such information is the responsibility of the CMR. Approval by the CMR shall be clearly indicated on each submittal, in ink or by stamp, and signed or initialed by the CMR. Shop Drawings and other submissions which have not been reviewed and approved by the CMR in accordance with the requirements stated in this subsection 60-09 and the Specifications shall be returned to the CMR with no action taken by the Design Professional. Such submissions shall be re-submitted to the Design Professional with the CMR's review and approval provided as required. Language contained in the CMR's approval of submittals shall not be interpreted to limit in any respect or otherwise affect the CMR's responsibilities and liabilities hereunder.
- j.** The Design Professional shall review the CMR's submittals to determine whether such submittals conform with the design concept and intent of the Project and with the information contained in the Contract Documents. If corrections are required, a full set of copies of duplicate parts or corrected drawings shall be submitted to the Design Professional for approval, and this procedure shall be followed until final approval has been given.
- k.** The CMR shall maintain a Shop Drawing schedule which shall contain all information necessary to expedite the preparation, review and approval of Shop Drawings. If the Design Professional has not responded to any Shop Drawing in accordance with the approved schedule of submittals, the CMR shall notify the Airport Authority and the Design Professional in writing. In no event shall the CMR

be entitled to an extension of the Contract Time on account of failure of the Design Professional to timely respond to properly submitted Shop Drawings or other submittals unless such written notice has first been provided to the Airport Authority and the Design Professional, and the Design Professional fails to respond to the Shop Drawing or other submittal within a reasonable time thereafter.

- i.** If Shop Drawings submitted by the CMR indicate a deviation from the requirements of the Contract Documents, the CMR shall specifically inform the Design Professional in writing of such deviation at the time of submission. The CMR shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Design Professional's approval of Shop Drawings, Product Data or Samples, unless the CMR has specifically informed the Design Professional in writing of such deviation at the time of submission and the Design Professional has given written approval of the specific deviation. The CMR shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Design Professional's approval thereof. Shop Drawings shall be submitted for complete systems. The Design Professional's approval of a specific item shall not indicate approval of an assembly of which the item is a component.
- m.** If Shop Drawings submitted by the CMR indicate a deviation from the Contract Documents, and the Design Professional considers such deviation to be acceptable and in the best interests of the Project (and not involving a change in the Contract Price or an extension of the Contract Time), the Design Professional may approve the Shop Drawings including such deviation, but such approval shall be subject to the understanding, hereby incorporated in each such approval given, that the deviation approved or ordered does not involve any change in the Contract Price or the Contract Time, and is subject to all provisions of, and is approved without prejudice to any rights of the Airport Authority under, the Contract Documents.
- n.** The CMR shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Design Professional on previous submittals. Unless such written notice has been given, the Design Professional's approval of a resubmitted Shop Drawing, Product Data or Sample shall not constitute approval of any changes not requested by the Design Professional on the prior submittal.
- o.** No Shop Drawing, Product Data or Sample shall be issued to the field, except for "information only" Shop Drawings, Product Data or Samples, without the Design Professional's approval stamp affixed thereto. No portion of the Work requiring submission of a Shop Drawing, Product Data or Sample shall be installed until the submittal has been so approved by the Design Professional, unless such requirement is waived by the Airport Authority in writing. All such portions of the Work shall be constructed and completed strictly in accordance with the approved submittals.
- p.** No acceptance or approval of any Shop Drawing, Product Data or Sample, nor any indication or request marked by the Design Professional on any Shop Drawing shall constitute an authorization for any increase in the Contract Price. Any claim by the CMR for such an increase must be made in accordance with applicable provisions of the Contract Documents.

END OF SECTION 60

Section 70 Legal Regulations and Responsibility to Public

70-01 LAWS TO BE OBSERVED

The CMR shall keep fully informed of all Applicable Laws. The CMR shall at all times observe and comply with all such Applicable Laws; and shall protect and indemnify the Airport Authority and all his/her officers, agents, or servants against any claim or liability arising from or based on the violation of any Applicable Laws, whether by the CMR or his/her employees, subcontractors, agents or other representatives.

70-02 PERMITS, LICENSES, AND TAXES

- a.** Except for those project permits and approvals for which the Airport Authority is responsible as listed in the Contract Documents, the CMR shall secure and pay for all governmental permits, licenses, approvals and consents of any kind which must be obtained in connection with the construction, use and occupancy of the Work ("Project Approvals"), including, but not limited to, all demolition permits, construction or building permits, utility inspection and connection fees, soil erosion and sedimentation control permits and inspection fees, other inspections and certificates of inspection, and all governmental fees or charges (including, without limitation, microfilming charges) necessary for the proper execution, completion and use of the Work, and including permits for temporary occupancy or obstruction of or projection into, over or under public streets and sidewalks and other public ways, curb-cut permits, and notifications to and permits or approvals from public agencies necessary in connection with demolition, waste disposal and construction. Fees for issuance of the building permit(s) for the Project will be waived where the Airport Authority has jurisdiction or paid directly by the CMR. The CMR shall promptly deliver to the Airport Authority copies of all Project Approvals obtained by the CMR, and satisfactory evidence that disposal of all waste material in connection with the Project is done in full compliance with Applicable Laws as a condition precedent to requesting the final pay application.
- b.** All applications, requests, appeals, filings and other documents, materials and information prepared by the CMR to be submitted to governmental authorities in connection with Project Approvals shall be subject to the prior approval of the Airport Authority, and shall be delivered to the Airport Authority sufficiently in advance of the time of their proposed filing or submission so as to permit a reasonable period for the review and comment of the Airport Authority and its consultants if applicable. If requested by the Airport Authority at any time, any such documents or materials to be used in connection with Project Approvals may be prepared by the Airport Authority or others designated by the Airport Authority, who may appear on behalf of the Airport Authority at any hearing, presentation or conference. The CMR shall promptly complete and provide such other documentation as may be required by the Airport Authority, any regulatory agencies or other public agencies, or such other parties as the Airport Authority may indicate. The Airport Authority and the CMR shall agree upon a reasonable procedure to handle normal and customary inspections of the Work by governmental officials during the progress thereof.

- c. The CMR shall not use, occupy or obstruct, nor permit any Subcontractor or any other person performing the Work to use, occupy or obstruct, any lands or areas outside of the legal limits of the Site, unless written permission in form and substance satisfactory to the Airport Authority has been obtained by the CMR at the CMR's sole cost. The CMR shall arrange for and provide at its expense all police details required to be present at or adjacent to the Site for traffic control purposes.
- d. The CMR shall give all notices required by, and shall otherwise comply with all Applicable Laws and lawful orders of, any public authority bearing on the performance of the Work including, without limitation, (i) applicable provisions of the Michigan State Building Code, (ii) applicable federal, state and local environmental laws, and (iii) applicable local, state and federal laws, ordinances and regulations governing noise pollution and abatement, dust control, employment and safety.
- e. If the CMR performs any Work knowing or having reason to know that it is contrary to Applicable Laws, and without notice to the Design Professional and the Airport Authority, the CMR shall assume full responsibility therefor and shall bear all costs of correction thereof and other costs, including any costs or damages sustained by the Airport Authority, attributable thereto. No time extension requests will be considered under these conditions.
- f. The CMR shall pay all sales, consumer, use and similar taxes for or on account of the Work provided by the CMR which are legally enacted when Bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

70-03 PATENTED DEVICES, MATERIALS, AND PROCESSES

If the CMR is required or desires to use any design, device, Material, or process covered by letters of patent or copyright, he shall provide for such use by suitable legal agreement with the patentee or owner. The CMR and the Surety shall indemnify and save harmless the Airport Authority, any third party, or political subdivision from any and all claims for infringement by reason of the use of any such patented design, device, Material or process, or any trademark or copyright, and shall indemnify the Airport Authority for any costs, expenses, and damages which it may be obliged to pay by reason of an infringement, at any time during the prosecution or after the completion of the Work.

70-04 RESTORATION OF SURFACES DISTURBED BY OTHERS

The Airport Authority reserves the right to authorize the construction, reconstruction, or maintenance of any public or private utility service, FAA or National Oceanic and Atmospheric Administration (NOAA) facility, or a utility service of another government agency at any time during the progress of the Work. To the extent that such construction, reconstruction, or maintenance has been coordinated with the Airport Authority, such authorized work (by others) is indicated in Contract Documents.

Except as listed above, the CMR shall not permit any individual, firm, or corporation to excavate or otherwise disturb such utility services or facilities located within the limits of the Work without the written permission of the Design Professional.

Should the owner of public or private utility service, FAA, or NOAA facility, or a utility service of another government agency be authorized to construct, reconstruct, or maintain such utility service or facility during the progress of the Work, the CMR shall cooperate with such owners by

arranging and performing the Work in this Contract so as to facilitate such construction, reconstruction or maintenance by others whether or not such work by others is listed above. When ordered as Extra Work by the Design Professional, the CMR shall make all necessary repairs to the Work which are due to such authorized work by others, unless otherwise provided for in the Contract, Plans, or Specifications. It is understood and agreed that the CMR shall not be entitled to make any claim for damages due to such authorized work by others or for any delay to the Work resulting from such authorized work.

70-05 FEDERAL AID PARTICIPATION

For AIP contracts, the United States Government has agreed to reimburse the Airport Authority for some portion of the contract costs. Such reimbursement is made from time to time upon the Airport Authority's request to the FAA. In consideration of the United States Government's (FAA's) agreement with the Airport Authority, the Airport Authority has included provisions in this Contract pursuant to the requirements of Title 49 of the United States Code (USC) and the Rules and Regulations of the FAA that pertain to the Work. These requirements are set forth in the Supplemental Terms and Conditions attached as part of the Contract Documents.

As required by the USC, the Contract Work is subject to the inspection and approval of duly authorized representatives of the Administrator, FAA, and is further subject to those provisions of the rules and regulations that are cited in the Contract, Plans, or Specifications.

No requirement of the USC, the rules and regulations implementing the USC, or this Contract shall be construed as making the Federal Government a party to the Contract nor will any such requirement interfere, in any way, with the rights of either party to the Contract.

70-06 SANITARY, HEALTH, AND SAFETY PROVISIONS

The CMR shall provide and maintain in a neat, sanitary condition such accommodations for the use of his/her employees as may be necessary to comply with the requirements of the state and local Board of Health, or of other bodies or tribunals having jurisdiction.

Attention is directed to Federal, state, and local laws, rules and regulations concerning construction safety and health standards. The CMR shall not require any worker to work in surroundings or under conditions that are unsanitary, hazardous, or dangerous to his/her health or safety.

70-07 PUBLIC CONVENIENCE AND SAFETY

The CMR shall control his/her operations and those of his/her Subcontractors and all Suppliers, to assure the least inconvenience to the traveling public. Under all circumstances, safety shall be the most important consideration.

The CMR shall maintain the free and unobstructed movement of aircraft and vehicular traffic with respect to his/her own operations and those of his/her Subcontractors and all Suppliers in accordance with the subsection titled MAINTENANCE OF TRAFFIC of Section 40 hereinbefore specified and shall limit such operations for the convenience and safety of the traveling public as specified in the subsection titled LIMITATION OF OPERATIONS of Section 80 hereinafter.

70-08 BARRICADES, WARNING SIGNS, AND HAZARD MARKINGS

The CMR shall furnish, erect, and maintain all barricades, warning signs, and markings for hazards necessary to protect the public and the Work. When used during periods of darkness, such barricades, warning signs, and hazard markings shall be suitably illuminated. Unless otherwise specified, barricades, warning signs, and markings for hazards that are in the Air Operations Area (AOA) shall be a maximum of 18 in high. Unless otherwise specified, barricades

shall be spaced not more than 25 feet apart. Barricades, warning signs, and markings shall be paid for under Section 40-05.

For vehicular and pedestrian traffic, the CMR shall furnish, erect, and maintain barricades, warning signs, lights and other traffic control devices in reasonable conformity with the Manual of Uniform Traffic Control Devices for Streets and Highways (published by the United States Government Printing Office).

When the Work requires closing an AOA of the Airport or portion of such area, the CMR shall furnish, erect, and maintain temporary markings and associated Lighting conforming to the requirements of AC 150/5340-1, Standards for Airport Markings.

The CMR shall furnish, erect, and maintain markings and associated Lighting of open trenches, excavations, temporary stock piles, and his/her parked construction Equipment that may be hazardous to the operation of emergency fire-rescue or maintenance vehicles on the Airport in reasonable conformance to AC 150/5370-2, Operational Safety on Airports During Construction.

The CMR shall identify each motorized vehicle or piece of construction Equipment in reasonable conformance to AC 150/5370-2.

The CMR shall furnish and erect all barricades, warning signs, and markings for hazards prior to commencing Work that requires such erection and shall maintain the barricades, warning signs, and markings for hazards until their dismantling is directed by the Design Professional.

Open-flame type lights shall not be permitted within the AOAs of the Airport.

70-09 USE OF EXPLOSIVES

The use of explosives is not permitted on Airport property.

70-10 PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE

The CMR shall be responsible for the preservation of all public and private property, and shall protect carefully from disturbance or damage all land monuments and property markers until the Design Professional has witnessed or otherwise referenced their location and shall not move them until directed.

The CMR shall be responsible for all damage or injury to property of any character, during the prosecution of the Work, resulting from any act, omission, neglect, or misconduct in his/her manner or method of executing the Work, or at any time due to defective Work or Materials, and said responsibility will not be released until the Project shall have been completed and accepted.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the Work, or in consequence of the non-execution thereof by the CMR, he shall restore, at his/her own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, or otherwise restoring as may be directed, or he shall make good such damage or injury in an acceptable manner.

70-11 RESPONSIBILITY FOR DAMAGE CLAIMS

To the fullest extent permitted by Applicable Law and commensurate with the CMR's degree of fault, the CMR shall indemnify and save harmless the Design Professional and the Airport Authority and their officers, and employees from all suits actions, or claims of any character brought because of any injuries or damage received or sustained by any person, persons, or property on account of the operations of the CMR; or on account of or in consequence of any neglect in safeguarding the Work; or through use of unacceptable Materials in constructing the Work; or because of any act or omission, neglect, or misconduct of said CMR; or because of any

claims or amounts recovered from any infringements of patent, trademark, or copyright; or from any claims or amounts arising or recovered under the "Workmen's Compensation Act," or any other law, ordinance, order, or decree. Money due the CMR under and by virtue of his/her Contract as may be considered necessary by the Airport Authority for such purpose may be retained for the use of the Airport Authority or, in case no money is due, his/her Surety may be held until such suits, actions, or claims for injuries or damages as aforesaid shall have been settled and suitable evidence to that effect furnished to the Airport Authority, except that money due the CMR will not be withheld when the CMR produces satisfactory evidence that he is adequately protected by public liability and property damage insurance.

70-12 THIRD PARTY BENEFICIARY CLAUSE

It is specifically agreed between the parties executing the Contract that it is not intended by any of the provisions of any part of the Contract to create the public or any member thereof a third party beneficiary or to authorize anyone not a party to the Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the Contract.

70-13 OPENING SECTIONS OF THE WORK TO TRAFFIC

The Airport Authority or its other contractors shall have the right to use and occupy spaces, areas, systems and other portions of the Contract Work prior to Final Acceptance of the entire Contract as provided in this subsection.

- a.** Should it be necessary for the CMR to complete portions of the Contract Work for the beneficial occupancy of the Airport Authority prior to completion of the entire Contract, and such "phasing" of the Work has been specified in the Contract Documents and indicated on the Plans, the CMR shall complete such portions of the Work on or before the date specified or as otherwise specified. Upon completion of any portion of the Work listed above, such portion shall be accepted by the Airport Authority in accordance with the subsection titled PARTIAL ACCEPTANCE of Section 50. The CMR represents and warrants that CMR has made his/her own estimate of the inherent difficulties involved in completing the Work under the conditions herein described and shall not claim any added compensation by reason of delay or increased cost due to opening a portion of the Contract Work. CMR shall be required to conform to safety standards contained AC 150/5370-2, Operational Safety on Airports During Construction (See Special Provisions.) CMR shall refer to the approved safety plan to identify barricade requirements and other safety requirements prior to opening up sections of Work to traffic.
- b.** Otherwise, if the Airport Authority desires to exercise its right of partial occupancy and use under this subsection titled OPENING SECTIONS OF THE WORK TO TRAFFIC, the Airport Authority shall give reasonable notice thereof to the CMR, and the CMR shall cooperate with the Airport Authority in providing facilities reasonably required for such use, provided that such use or occupancy shall not unreasonably interfere with the CMR's operations nor delay the CMR in completing the entire Contract. If the Airport Authority's partial use and occupancy takes place after expiration of the Contract Time and is made necessary as a result of unexcused delays by the CMR in achieving Substantial Completion, then, without limitation of any other rights or remedies of the Airport Authority under the Contract Documents, all additional costs in connection with such partial use and occupancy shall be the responsibility of the CMR. If the Airport Authority's partial use and occupancy shall occur prior to expiration of the Contract Time, and is exercised for the convenience of the Airport Authority, then the Airport Authority shall be

responsible for additional costs made necessary by reason of such partial use and occupancy, and the CMR may make a claim for such additional costs as provided in the Contract Documents. Mutually acceptable arrangements shall be made between the Airport Authority or its other contractors and the CMR with regard to procedures, terms and conditions governing the operation and maintenance of such facilities as may be utilized for the benefit of the Airport Authority or its other contractors, and, if the exercise of such right to partial use and occupancy occurs prior to the Substantial Completion Date, the Airport Authority will assume proportionate and reasonable responsibility for operation of systems, Equipment and/or utilities required in connection with such use, including proportionate and reasonable expenses of operation incidental thereto, and mutually acceptable arrangements shall be made as to guarantees and warranties affecting designated portions or elements of the Work associated therewith.

- c. No portion of the Work may be opened by the CMR for public use until ordered by the Design Professional in writing. Should it become necessary to open a portion of the Work to public traffic on a temporary or intermittent basis, such openings shall be made when, in the opinion of the Design Professional, such portion of the Work is in an acceptable condition to support the intended traffic. Temporary or intermittent openings are considered to be inherent in the Work and shall not constitute either acceptance of the portion of the Work so opened or a waiver of any provision of the Contract. Any damage to the portion of the Work so opened that is not attributable to traffic which is permitted by the Airport Authority shall be repaired by the CMR at his/her expense.
- d. The Airport Authority's use or occupancy of such designated areas or portions of the Work prior to completion and acceptance of all or portions of the Work shall not constitute acceptance of systems, Materials, or elements of the Work which are not in accordance with the requirements of the Contract Documents, nor relieve the CMR from its obligation to complete the Work, or its responsibility for loss or damage due to or arising out of defects in, or malfunctioning of, systems, Materials, Equipment, or elements of the Work, nor from other unfulfilled obligations or responsibilities of the CMR under the Contract. If, however, damage results to such designated areas or portions of the Work, in whole or in part, from any act of the Airport Authority, then the Airport Authority will assume its proportionate responsibility for such damage, to the extent that such damage is not covered by insurance provided in accordance with the terms of the Contract Documents.

70-14 CMR'S RESPONSIBILITY FOR WORK

Until the Design Professional's Final Acceptance of the entire completed Work, excepting only those portions of the Work accepted in accordance with the subsection titled PARTIAL ACCEPTANCE of Section 50, the CMR shall have the charge and care thereof and shall take every precaution against injury or damage to any part due to the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the Work. The CMR shall rebuild, repair, restore, and make good all injuries or damages to any portion of the Work occasioned by any of the above causes before Final Acceptance and shall bear the expense thereof except damage to the Work due to unforeseeable causes beyond the control of and without the fault or negligence of the CMR, including but not restricted to acts of God such as earthquake, tidal wave, tornado, hurricane or other cataclysmic phenomenon of nature, or acts of the public enemy or of government authorities.

If the Work is suspended for any cause whatever, the CMR shall be responsible for the Work and shall take such precautions necessary to prevent damage to the Work. The CMR shall provide for normal drainage and shall erect necessary temporary structures, signs, or other facilities at his/her expense. During such period of suspension of Work, the CMR shall properly and continuously maintain in an acceptable growing condition all living Material in newly established planting, seedings, and soddings furnished under his/her contract, and shall take adequate precautions to protect new tree growth and other important vegetative growth against injury.

70-15 CMR'S RESPONSIBILITY FOR UTILITY SERVICE AND FACILITIES OF OTHERS

As provided in the subsection titled RESTORATION OF SURFACES DISTURBED BY OTHERS of this section, the CMR shall cooperate with the owner of any public or private utility service, FAA or NOAA, or a utility service of another government agency that may be authorized by the owner to construct, reconstruct or maintain such utility services or facilities during the progress of the Work. In addition, the CMR shall control his/her operations to prevent the unscheduled interruption of such utility services and facilities.

To the extent that such public or private utility services, FAA, or NOAA facilities, or utility services of another governmental agency are known to exist within the limits of the Contract Work, the approximate locations have been indicated on the Plans and the owners are indicated in the Contract Documents.

It is understood and agreed that the Airport Authority does not guarantee the accuracy or the completeness of the location information relating to existing utility services, facilities, or structures that may be shown on the Plans or encountered in the Work. Any inaccuracy or omission in such information shall not relieve the CMR of his/her responsibility to protect such existing features from damage or unscheduled interruption of service.

It is further understood and agreed that the CMR shall, upon execution of the Contract, notify the owners of all utility services or other facilities of his/her plan of operations. Such notification shall be in writing addressed to THE PERSON TO CONTACT as provided hereinbefore in this subsection and the subsection titled RESTORATION OF SURFACES DISTURBED BY OTHERS of this section. A copy of each notification shall be given to the Design Professional.

In addition to the general written notification hereinbefore provided, it shall be the responsibility of the CMR to keep such individual owners advised of changes in his/her plan of operations that would affect such owners.

Prior to commencing the Work in the general vicinity of an existing utility service or facility, the CMR shall again notify each such owner of his/her plan of operation. If, in the CMR's opinion, the owner's assistance is needed to locate the utility service or facility or the presence of a representative of the owner is desirable to observe the Work, such advice should be included in the notification. Such notification shall be given by the most expeditious means to reach the utility owner's PERSON TO CONTACT no later than two normal Working Days prior to the CMR's commencement of operations in such general vicinity. The CMR shall furnish a written summary of the notification to the Design Professional.

The CMR's failure to give the two Working Day's notice hereinabove provided shall be cause for the Airport Authority to suspend the CMR's operations in the general vicinity of a utility service or facility.

Where the outside limits of an underground utility service have been located and staked on the ground, the CMR shall be required to use excavation methods acceptable to the Design Professional within 3 feet (90 cm) of such outside limits at such points as may be required to ensure protection from damage due to the CMR's operations.

Should the CMR damage or interrupt the operation of a utility service or facility by accident or otherwise, he shall immediately notify the proper authority and the Design Professional and shall take all reasonable measures to prevent further damage or interruption of service. The CMR, in such events, shall cooperate with the utility service or facility owner and the Design Professional continuously until such damage has been repaired and service restored to the satisfaction of the utility or facility owner.

The CMR shall bear all costs of damage and restoration of service to any utility service or facility due to his/her operations whether or not due to negligence or accident. The Airport Authority reserves the right to deduct such costs from any monies due or which may become due the CMR, or his/her Surety.

70-15.1 FAA FACILITIES AND CABLE RUNS

The CMR is hereby advised that the construction limits of the Project include existing facilities and buried cable runs that are owned, operated and maintained by the FAA. The CMR, during the prosecution of the Project Work, shall comply with the following:

- a. The CMR shall permit FAA maintenance personnel the right of access to the Project Work Site for purposes of inspecting and maintaining all existing FAA owned facilities.
- b. The CMR shall notify the above named FAA Airway Facilities Point-of-Contact seven (7) Calendar Days prior to commencement of construction activities in order to permit sufficient time to locate and mark existing buried cables and to schedule any required facility outages.
- c. If prosecution of the Project Work requires a facility outage, the CMR shall contact the above named FAA Point-of-Contact a minimum of 48 hours prior to the time of the required outage.
- d. If prosecution of the Project Work results in damages to existing FAA equipment or cables, the CMR shall repair the damaged item in conformance with FAA Airway Facilities' standards to the satisfaction of the above named FAA Point-of-Contact.
- e. If the Project Work requires the cutting or splicing of FAA owned cables, the above named FAA Point-of-Contact shall be contacted a minimum of 48 hours prior to the time the cable Work commences. The FAA reserves the right to have a FAA Airway Facilities representative on the Site to observe the splicing of the cables as a condition of acceptance. All cable splices are to be accomplished in accordance with FAA Airway Facilities' specifications and require approval by the above named FAA Point-of-Contact as a condition of acceptance by the Airport Authority. The CMR is hereby advised that FAA Airway Facilities restricts the location of where splices may be installed. If a cable splice is required in a location that is not permitted by FAA Airway Facilities, the CMR shall furnish and install a sufficient length of new cable that eliminates the need for any splice.

70-16 FURNISHING RIGHTS-OF-WAY

The Airport Authority will be responsible for furnishing all rights-of-way upon which the Work is to be constructed in advance of the CMR's operations.

70-17 PERSONAL LIABILITY OF PUBLIC OFFICIALS

In carrying out any of the Contract provisions or in exercising any power or authority granted to him by this Contract, there shall be no liability upon the Design Professional, his/her authorized representatives, or any officials of the Airport Authority either personally or as an official of the Airport Authority. It is understood that in such matters they act solely as agents and representatives of the Airport Authority.

70-18 NO WAIVER OF LEGAL RIGHTS

Upon completion of the Work, the Airport Authority will expeditiously make final inspection and notify the CMR of Final Acceptance. Such Final Acceptance, however, shall not preclude or stop the Airport Authority from correcting any measurement, estimate, or certificate made before or after completion of the Work, nor shall the Airport Authority be precluded or stopped from recovering from the CMR or his/her Surety, or both, such overpayment as may be sustained, or by failure on the part of the CMR to fulfill his/her obligations under the Contract. A waiver on the part of the Airport Authority of any breach of any part of the Contract shall not be held to be a waiver of any other or subsequent breach.

The CMR, without prejudice to the terms of the Contract, shall be liable to the Airport Authority for latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the owner's rights under any warranty or guaranty.

70-19 ENVIRONMENTAL PROTECTION

The CMR shall comply with all Federal, state, and local laws and regulations controlling pollution of the environment. He shall take necessary precautions to prevent pollution of streams, lakes, ponds, and reservoirs with fuels, oils, bitumens, chemicals, or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter.

70-20 ARCHAEOLOGICAL AND HISTORICAL FINDINGS

Unless otherwise specified in this subsection, the CMR is advised that the Site of the Work is not within any property, district, or site, and does not contain any building, structure, or object listed in the current National Register of Historic Places published by the United States Department of Interior.

Should the CMR encounter, during his/her operations, any building, part of a building, structure, or object that is incongruous with its surroundings, he shall immediately cease operations in that location and notify the Design Professional. The Design Professional will immediately investigate the CMR's finding and the Airport Authority will direct the CMR to either resume his/her operations or to suspend operations as directed.

Should the Airport Authority order suspension of the CMR's operations in order to protect an archaeological or historical finding, or order the CMR to perform Extra Work, such shall be covered by an appropriate Contract modification (Change Order or Supplemental Agreement) as provided in the subsection titled EXTRA WORK of Section 40 and the subsection titled PAYMENT FOR EXTRA WORK AND FORCE ACCOUNT WORK of Section 90. If appropriate, the Contract modification shall include an extension of Contract Time in accordance with the subsection titled DETERMINATION AND EXTENSION OF CONTRACT TIME of Section 80.

END OF SECTION 70

Section 80 Prosecution and Progress

80-01 SUBLETTING OF CONTRACT

The Airport Authority will not recognize any Subcontractor on the Work. The CMR shall at all times when Work is in progress be represented either in person, by a qualified Superintendent, or by other designated, qualified representative who is duly authorized to receive and execute orders of the Design Professional.

Should the CMR elect to assign his/her Contract, said assignment shall be concurred in by the Surety, shall be presented for the consideration and approval of the Airport Authority, and shall be consummated only on the written approval of the Airport Authority. In case of approval, the CMR shall file copies of all Subcontracts with the Design Professional.

The CMR shall perform, with his organization, an amount of Work equal to at least 25 percent of the total Contract cost.

- a.** Unless otherwise stated in the Contract Documents or the RFB, the CMR, as soon as practicable after Award of the Contract, shall furnish in writing to the Airport Authority the names of its proposed Subcontractors for each of the principal portions of the Work. The CMR shall not contract with any Subcontractor to whom the Airport Authority or Design Professional, with the Airport Authority's approval, makes reasonable and timely objection. If a Subcontractor proposed by the CMR, but rejected by the Airport Authority, is reasonably capable of performing the Contract Work, through a demonstration of available Equipment, manpower, financial soundness, ability to procure Materials, ability to provide and maintain insurance and bonds, and is not in default to the Airport Authority, the Contract Price shall be increased or decreased, as applicable, by the difference, if any, between the Subcontract price of the Subcontractor proposed by the CMR and the Subcontract price of the Subcontractor designated by the Airport Authority for award of the Subcontract, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's work. The CMR shall not be required to contract with anyone to whom the CMR has made reasonable and timely objection. The CMR shall make no substitution for any Subcontractor previously selected if the Airport Authority makes objection to such substitution. No Airport Authority review or approval of, or lack of objection to, Subcontractors pursuant to this subsection shall in any way relieve or limit the CMR's responsibility for the Work performed by any Subcontractor or limit any of the CMR's indemnities provided pursuant to the Contract Documents. Without limiting the foregoing or any other indemnity provided hereunder, the CMR further shall indemnify and save harmless the Airport Authority and Design Professional from all suits, actions, or claims and character brought on account of any acts or omissions of any Subcontractor in connection with the Work.
- b.** The CMR shall maintain and periodically update and distribute to the Airport Authority and the Design Professional a Project Directory listing the names, addresses, telephone numbers and e-mail addresses of the principal members of the staff of each Subcontractor. The principal contact and a back-up for each Subcontractor and each of their home telephone numbers, mobile telephone

numbers and pager numbers, if available, shall be indicated in the Project Directory so that such persons can be reached in emergency situations occurring beyond regular business hours.

- c. Each contract between the CMR and the selected Subcontractor (“Subcontract”) shall be in writing, and shall require the Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the CMR by the terms of the Contract Documents, and to assume toward the CMR all the obligations and responsibilities (including, without limitation, the responsibility for safety of the Subcontractor’s work) which the CMR, by the Contract Documents, assumes toward the Airport Authority. Each Subcontract shall preserve and protect the rights of the Airport Authority under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the Subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the Subcontract, the benefit of all rights, remedies and redress against the CMR that the CMR, by the Contract Documents, has against the Airport Authority. The CMR shall require each Subcontractor to enter into similar agreements with its Subcontractors. The CMR shall make available to each proposed Subcontractor, prior to the execution of a Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this subsection, and identify to the Subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Contract Documents available to his Subcontractors.
- d. Each Subcontract or other agreement between the CMR and a Subcontractor or Supplier shall contain provisions whereby the Subcontractor or Supplier waives all rights against the Airport Authority, the CMR, the Design Professional, the Design Professional’s consultants, and other consultants and contractors engaged by the Airport Authority for or in connection with any loss or damage, however caused, to property owned by the Subcontractor or Supplier, including, but not limited to, Materials and Equipment owned by such Subcontractor or Supplier, whether or not to be incorporated into the Work. If the insurers on any policies of property insurance maintained by the Airport Authority or by the CMR and covering or applicable to the Work require separate waiver forms to be signed by any Subcontractor, or Supplier, the CMR will obtain the same.
- e. Each Subcontract shall provide that in the event of termination of the Contract for any reason, the Airport Authority shall have the right (but shall have no obligation) to assume, and/or to assign to a general contractor or construction manager or other third party who is qualified and has sufficient resources to complete the Work, the rights of the CMR under the Subcontract. In the event of such assumption or assignment by the Airport Authority, the Subcontractor shall have no claim against the Airport Authority or such third party for Work performed by such Subcontractor or other matters arising prior to termination of the Contract, and the Airport Authority or such third party, as the case may be, shall be liable only for obligations to the Subcontractor arising after such assumption.
- f. Any approval by the Airport Authority of a Subcontract or other agreement between the CMR and any Subcontractor or other third party for the furnishing or supply of any labor, Materials or Equipment in the performance of the Work shall in no way affect the CMR’s obligations to the Airport Authority or the Airport Authority’s rights under the Contract Documents. The CMR’s form of Subcontract agreement shall

be consistent with the provisions of **Exhibit RSP**. The form of Subcontract will be subject to review by the Airport Authority upon request. No material revisions shall be made to any Subcontract or other agreement approved by the Airport Authority without the prior approval of the Airport Authority, and copies of all executed Subcontracts and amendments thereto shall be provided to the Airport Authority promptly.

80-02 NOTICE TO PROCEED

The Notice to Proceed(s) shall state the date on which it is expected the CMR will begin the construction and from which date Contract Time will be charged. The CMR shall begin the Work to be performed under the Contract within ten (10) Calendar Days of the date set by the Airport Authority in the written Notice to Proceed(s), but in any event, the CMR shall notify the Airport Authority and Design Professional at least 24 hours in advance of the time actual construction operations will begin.

80-03 PROSECUTION AND PROGRESS

Unless otherwise specified, the CMR shall submit his/her progress schedule for the Airport Authority's approval within ten (10) Calendar Days after the effective date of the Notice to Proceed. The CMR's progress schedule, when approved by the Airport Authority and Design Professional, may be used to establish major construction operations and to check on the progress of the Work. The CMR shall provide sufficient Materials, Equipment, and labor to guarantee the completion of the Project in accordance with the Plans and Specifications within the time set forth in the Bid.

If the CMR falls significantly behind the submitted schedule, the CMR shall, upon the Airport Authority's request, submit a revised schedule for completion of the Work within the Contract Time and modify his/her operations to provide such additional Materials, Equipment, and labor necessary to meet the revised schedule. Should the prosecution of the Work be discontinued for any reason, the CMR shall notify the Airport Authority and Design Professional at least 24 hours in advance of resuming operations.

For AIP contracts, the CMR shall not commence any actual construction prior to the date on which the Notice to Proceed is issued by the Airport Authority.

80-04 LIMITATION OF OPERATIONS

The CMR shall control his/her operations and the operations of his/her Subcontractors and all Suppliers so as to provide for the free and unobstructed movement of aircraft in the Air Operations Areas (AOAs) of the Airport.

When the Work requires the CMR to conduct his/her operations within an AOA of the Airport, the Work shall be coordinated with Airport operations (through the Design Professional) at least 48 hours prior to commencement of such Work. The CMR shall not close an AOA until so authorized by the Design Professional and until the necessary temporary marking and associated Lighting is in place as provided in the subsection titled BARRICADES, WARNING SIGNS, AND HAZARD MARKINGS of Section 70.

When the Contract Work requires the CMR to work within an AOA of the Airport on an intermittent basis (intermittent opening and closing of the AOA), the CMR shall maintain constant communications as hereinafter specified; immediately obey all instructions to vacate the AOA; immediately obey all instructions to resume work in such AOA. Failure to maintain the specified communications or to obey instructions shall be cause for suspension of the CMR's operations in the AOA until the satisfactory conditions are provided. Certain areas of the AOA cannot be closed

to operating aircraft to permit the CMR's operations on a continuous basis and will therefore be closed to aircraft operations intermittently as indicated in the Contract Documents.

CMR shall be required to conform to safety standards contained in AC 150/5370-2, Operational Safety on Airports During Construction and Special Provisions provided in the Specifications.

80-04.1 OPERATIONAL SAFETY ON AIRPORT DURING CONSTRUCTION

All CMRs' operations shall be conducted in accordance with the project safety plan and the provisions set forth within the current version of Advisory Circular 150/5370-2. The safety plan included within the Contract Documents conveys minimum requirements for operational safety on the Airport during construction activities. The CMR shall prepare and submit a plan to the Airport Authority for approval that details how it proposes to comply with the requirements presented within the safety plan.

The CMR shall implement all necessary safety plan measures prior to commencement of any Work activity. The CMR shall conduct routine checks of the safety plan measures to assure compliance with the safety plan measures.

The CMR is responsible to the Airport Authority for the conduct of all Subcontractors it employs on the Project. The CMR shall assure that all Subcontractors are made aware of the requirements of the safety plan and that they implement and maintain all necessary measures.

No deviation or modifications may be made to the approved safety plan unless approved in writing by the Airport Authority or Design Professional.

80-05 CHARACTER OF WORKERS, METHODS, AND EQUIPMENT

The CMR shall, at all times, employ sufficient labor and Equipment for prosecuting the Work to full completion in the manner and time required by the Contract, Plans, and Specifications.

All workers shall have sufficient skill and experience to perform properly the Work assigned to them. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the Equipment required to perform the work satisfactorily.

Any person employed by the CMR or by any Subcontractor who violates any operational regulations and, in the opinion of the Design Professional, does not perform his Work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the Design Professional, be removed forthwith by the CMR or Subcontractor employing such person, and shall not be employed again in any portion of the Work without approval of the Design Professional.

Any and all persons employed by the CMR or by any Subcontractor shall be an active participant in a comprehensive drug testing program that includes pre-employment, random and post accident drug and alcohol testing program that meets or exceeds the standards for post accident and random testing in accordance with Department of Transportation (DOT) Drug and Alcohol Testing - 49 Code of Federal Regulations (CFR) Part 40 (hereinafter "Drug Testing"). Written proof of Drug Testing shall be submitted to the Airport Authority simultaneously with the required Payment and Performance Bonds and Insurance. No person may access the Site unless the CMR conclusively demonstrates such person is an active participant in a Drug Testing program required herein. The CMR shall not be entitled to any additional costs of any type or amount, nor any extensions of time to comply with this Drug Testing requirement. Any and all costs of any type related to Drug Testing shall be included in the CMR's Bid, even if not specifically mentioned therein.

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

All Equipment that is proposed to be used on the Work shall be of sufficient size and in such mechanical condition as to meet requirements of the Work and to produce a satisfactory quality of work. Equipment used on any portion of the Work shall be such that no injury to previously completed Work, adjacent property, or existing Airport facilities will result from its use.

When the methods and Equipment to be used by the CMR in accomplishing the Work are not prescribed in the Contract, the CMR is free to use any methods or Equipment that will accomplish the Work in conformity with the requirements of the Contract, Plans, and Specifications.

When the Contract specifies the use of certain methods and Equipment, such methods and Equipment shall be used unless others are authorized by the Design Professional. If the CMR desires to use a method or type of Equipment other than specified in the Contract, he may request authority from the Design Professional to do so. The request shall be in writing and shall include a full description of the methods and Equipment proposed and of the reasons for desiring to make the change. If approval is given, it will be on the condition that the CMR will be fully responsible for producing Work in conformity with Contract requirements. If, after trial use of the substituted methods or Equipment, the Design Professional determines that the Work produced does not meet Contract requirements, the CMR shall discontinue the use of the substitute method or Equipment and shall complete the remaining Work with the specified methods and Equipment. The CMR shall remove any deficient Work and replace it with work of specified quality, or take such other corrective action as the Design Professional may direct. No change will be made in basis of payment for the Contract Items involved nor in Contract Time as a result of authorizing a change in methods or Equipment under this subsection.

80-06 TEMPORARY SUSPENSION OF THE WORK

The Airport Authority shall have the authority to suspend the Work wholly, or in part, for such period or periods as he may deem necessary, due to unsuitable weather, or such other conditions as are considered unfavorable for the prosecution of the Work, or for such time as is necessary due to the failure on the part of the CMR to carry out orders given or perform any or all provisions of the Contract.

In the event that the CMR is ordered by the Airport Authority, in writing, to suspend Work for some unforeseen cause not otherwise provided for in the Contract and over which the CMR has no control, the CMR may be reimbursed for actual money expended on the Work during the period of shutdown. No allowance will be made for anticipated profits. The period of shutdown shall be computed from the effective date of the Design Professional's order to suspend Work to the effective date of the Design Professional's order to resume the Work. Claims for such compensation shall be filed with the Design Professional within the time period stated in the Design Professional's order to resume Work. The CMR shall submit with his/her claim information substantiating the amount shown on the claim. The Design Professional will forward the CMR's claim to the Airport Authority for consideration in accordance with local laws or ordinances. No provision of this article shall be construed as entitling the CMR to compensation for delays due to inclement weather, for suspensions made at the request of the Airport Authority, or for any other delay provided for in the Contract, Plans, or Specifications.

If it should become necessary to suspend Work for an indefinite period, the CMR shall store all Materials in such manner that they will not become an obstruction nor become damaged in any way. He shall take every precaution to prevent damage or deterioration of the Work performed

and provide for normal drainage of the Work. The CMR shall erect temporary structures where necessary to provide for traffic on, to, or from the Airport.

80-07 DETERMINATION AND EXTENSION OF CONTRACT TIME

The number of Calendar or Working Days allowed for completion of the Work shall be stated in the proposal and Contract and shall be known as the Contract Time.

Should the Contract Time require extension for reasons beyond the CMR's control, it shall be adjusted as follows:

- a. Contract Time based on Working Days shall be calculated weekly by the Design Professional. The Design Professional will furnish the CMR a copy of his/her weekly statement of the number of Working Days charged against the Contract Time during the week and the number of Working Days currently specified for completion of the Contract (the original Contract Time plus the number of Working Days, if any, that have been included in approved Change Orders or Supplemental Agreements covering Extra Work.

The Design Professional shall base his/her weekly statement of Contract Time charged on the following considerations:

- (1) No time shall be charged for days on which the CMR is unable to proceed with the principal item of Work under construction at the time for at least 6 hours with the normal work force employed on such principal item. Should the normal work force be on a double-shift, 12 hours shall be used. Should the normal work force be on a triple-shift, 18 hours shall apply. Conditions beyond the CMR's control such as strikes, lockouts, unusual delays in transportation, temporary suspension of the principal item of Work under construction or temporary suspension of the entire Work which have been ordered by the Airport Authority for reasons not the fault of the CMR, shall not be charged against the Contract Time.
- (2) The Design Professional will not make charges against the Contract Time prior to the effective date of the Notice to Proceed.
- (3) The Design Professional will begin charges against the Contract Time on the first Working Day after the effective date of the Notice to Proceed.
- (4) The Design Professional will not make charges against the Contract Time after the date of Final Acceptance as defined in the subsection titled FINAL ACCEPTANCE of Section 50 of Article 2.
- (5) The CMR will be allowed 1 week in which to file a written protest setting forth his/her objections to the Design Professional's weekly statement. If no objection is filed within such specified time, the weekly statement shall be considered as acceptable to the CMR.

The Contract Time (stated in the Bid) is based on the originally estimated quantities as described in the subsection titled INTERPRETATION OF ESTIMATED BID QUANTITIES of Section 20 of the RFB. Should the satisfactory completion of the Contract require performance of Work in greater quantities than those estimated in the proposal, the Contract Time shall be increased in the same proportion as the cost of the actually completed quantities bears to the cost of the originally estimated quantities in the proposal. Such increase in Contract Time shall not consider either the cost of Work or the extension of Contract Time that has been

covered by Change Order or Supplemental Agreement and shall be made at the time of final payment.

- b.** Contract Time based on Calendar Days shall consist of the number of Calendar Days stated in the Contract counting from the effective date of the Notice to Proceed and including all Saturdays, Sundays, holidays, and nonwork days. All Calendar Days elapsing between the effective dates of the Airport Authority's orders to suspend and resume all Work, due to causes not the fault of the CMR, shall be excluded.

At the time of final payment, the Contract Time shall be increased in the same proportion as the cost of the actually completed quantities bears to the cost of the originally estimated quantities in the proposal. Such increase in the Contract Time shall not consider either cost of Work or the extension of Contract Time that has been covered by a Change Order or Supplemental Agreement. Charges against the Contract Time will cease as of the date of Final Acceptance.

- c.** When the Contract Time is a specified completion date, it shall be the Substantial Completion Date.
- d.** If the CMR finds it impossible for reasons beyond his/her control to complete the Work within the Contract Time as specified, or as extended in accordance with the provisions of this subsection, he may, at any time prior to the expiration of the Contract Time as extended, make a written request to the Design Professional for an extension of time setting forth the reasons which he believes will justify the granting of his/her request. Requests for extension of time on Calendar Day projects, caused by inclement weather, shall be supported with National Weather Bureau data showing the actual amount of inclement weather exceeded which could normally be expected during the Contract period. The CMR's plea that insufficient time was specified is not a valid reason for extension of time. If the Design Professional finds that the Work was delayed because of conditions beyond the control and without the fault of the CMR, he may extend the time for completion in such amount as the conditions justify. The extended time for completion shall then be in full force and effect, the same as though it were the original time for completion.
- e.** Whenever the CMR requests an extension of the Contract Time, only the necessary delay caused to completion of the Work as a whole shall be considered in measuring or evaluating the extent of the delay. No extension of the Contract Time shall be granted for delays affecting portions of the Work which are not critical path activities on the latest accepted progress schedule. In any event, even though a cause of delay meets the above conditions, any extension shall be granted only to the extent that the effect of such cause could not be avoided or mitigated by the exercise of all reasonable precautions, efforts and measures (including planning, rescheduling or resequencing Work activities, and reallocating and redeploying forces), whether before or after the occurrence of the cause of delay. No extension shall be granted for any delay which, in whole or in part, results from or arises out of the acts or omissions of the CMR or a delay which would not have affected the performance of the Contract were it not for the fault of the CMR, or for other delay for which the CMR is not entitled to an extension of the Contract Time. No extension of the Contract Time shall be granted on account of any occurrence, event or condition which would or might have caused an excusable delay were it not for a prior or superseding delay resulting from the act

or omission of the CMR. No extension of the Contract Time shall be allowed unless the total float in the latest accepted progress schedule has been exhausted. Any reference in this subsection to the fault, act or omission of the CMR shall be deemed to include Subcontractors and Suppliers, employees and others performing any part of the Contract, and all the foregoing shall, for this purpose, be considered as if they were agents of the CMR.

- f.** The CMR shall notify the Airport Authority as soon as possible of any cause that may delay the Work, but in any event the CMR shall give written notice to the Airport Authority no later than five (5) Working Days after the time the CMR knows or should know of any cause which will result (or has resulted) in delay for which the CMR claims or intends to claim an extension of the Contract Time (including those causes which the Airport Authority or the Design Professional is responsible for or has knowledge of). Such written notice shall (i) state that an extension is claimed; (ii) state in reasonable detail the circumstances which form the basis of the delay; and (iii) describe as fully as practicable at the time the date of commencement and duration, or expected duration, of the delay and its effect on the various portions of the Work. The CMR shall provide such supporting documentation of its claim as the Airport Authority may require, including a time impact analysis as provided in subparagraph g below.
- g.** The CMR shall submit to the Airport Authority a written time impact analysis illustrating the impact on the Project schedule of each change in the Work or claimed delay. A time impact analysis shall be submitted with each proposed Change Order submitted by the CMR. Each time impact analysis shall include a fragmentary network demonstrating the time impact to all affected activities in the progress schedule utilizing the latest accepted progress schedule.
- h.** The submission of a written notice of delay and request for time extension, as provided in this Section, shall be a condition precedent to any extension of the Contract Time. No officer, employee or representative of the Airport Authority or the Design Professional shall have authority to modify or waive, expressly or by implication, such condition precedent, and any action or statement by any such officer, employee or representative to such effect shall not be binding upon the Airport Authority. Since the possible necessity for an extension of the Contract Time might materially alter the scheduling, plans and other actions of the Airport Authority, and since, with sufficient opportunity, the Airport Authority might (if it knew of the CMR's claim) attempt to mitigate the effect of a delay for which an extension of the Contract Time may be claimed, and since merely oral notice might cause disputes as to the existence or substance thereof and notice long after the event would seriously hinder or prevent the Airport Authority's investigation of the pertinent facts, the giving of written notice within the time period stated above shall be of the essence of the CMR's obligations and failure of the CMR to comply with these requirements shall be a conclusive waiver of a claim for extension of the Contract Time. It shall in all cases be presumed that no extension or further extension of the Contract Time is due unless the CMR shall affirmatively demonstrate to the satisfaction of the Airport Authority that the conditions and requirements of this Section have been satisfied. To this end the CMR shall maintain adequate Records supporting any claim for an extension of the Contract Time, and in the absence of such Records the foregoing presumption shall be deemed conclusive.

80-08 FAILURE TO COMPLETE ON TIME

For each Calendar Day or Working Day, as specified in the Contract, that any Work remains uncompleted after the Contract Time (including all extensions and adjustments as provided in the subsection titled DETERMINATION AND EXTENSION OF CONTRACT TIME of this Section) the sum specified in the **Exhibit SCH** as liquidated damages will be deducted from any money due or to become due the CMR or his/her Surety. Such deducted sums shall not be deducted as a penalty.

The maximum construction time allowed for is specified in **Exhibit SCH**.

Permitting the CMR to continue and finish the Work or any part of it after the time fixed for its completion, or after the date to which the time for completion may have been extended, will in no way operate as a waiver on the part of the Airport Authority of any of its rights under the Contract.

80-09 DEFAULT AND TERMINATION OF CONTRACT

a. TERMINATION BY THE CMR

- (1)** Subject to Subsection b, TERMINATION BY THE AIRPORT FOR CAUSE, the CMR may terminate the Contract if the Work is stopped for a period of 180 Calendar Days through no act, fault or negligence of the CMR or a Subcontractor, their agents or employees or any other persons performing portions of the Work, for any of the following reasons:
 - (i)** issuance of an order of a court or other public authority having jurisdiction preventing continuance of the Work;
 - (ii)** an act of government, such as a declaration of national emergency, making necessary Material or Equipment unavailable;
 - (iii)** if the Airport Authority has wrongfully not made payment as provided in the Contract Documents; or
 - (iv)** if repeated suspensions, delays or interruptions by the Airport Authority or the Design Professional as described in Section 80-06, TEMPORARY SUSPENSION OF THE WORK, constitute in the aggregate more than 180 Calendar Days in any 365-day period.
- (2)** If one of the above reasons exists, the CMR, if not in default hereunder, may give the Airport Authority written notice of the CMR's intention to terminate the Contract, and if, within thirty (30) Calendar Days after the Airport Authority's receipt of such notice, the Work shall not have resumed, or the default of the Airport Authority shall not have been cured, or action by the Airport Authority to effect such cure shall not have been commenced within such 30-day period and diligently pursued to completion, as the case may be, then the CMR may terminate the Contract by written notice and recover from the Airport Authority payment for Work executed and for proven loss with respect to Materials, Equipment, tools, and construction Equipment and machinery.

b. TERMINATION BY THE AIRPORT AUTHORITY FOR CAUSE

- (1)** If (i) a petition is filed by the CMR, or against the CMR with its consent, under any federal or state law concerning bankruptcy, reorganization, insolvency or relief from creditors, or such a petition is filed against the CMR without its consent and is not dismissed within sixty (60) Calendar Days, or within ten (10) Calendar Days if the CMR fails to furnish to the

Airport Authority evidence reasonably satisfactory to the Airport Authority that the petition or proceeding is without merit; or (ii) a receiver, trustee, liquidator, custodian or the like appointed (with or without the CMR's consent) with respect to the CMR or takes possession of all or any substantial portion of its assets, or the CMR makes an assignment for the benefit of creditors; or (iii) the CMR becomes insolvent or is generally not paying its debts as they become due, or there has been a material adverse change in the financial condition of the CMR; or (iv) the CMR's Surety company shall refuse to issue a labor or material Payment or Performance Bond (or to amend any such bond to increase the penal sum thereof) or other similar guarantee of performance with respect to the Contract; or (v) due to the fault of the CMR: (a) the Work shall be unreasonably delayed or discontinued, or (b) the execution of the Work ceases for more than ten (10) Calendar Days, or (c) the Work is delayed so that, in the Airport Authority's reasonable, good faith judgment, the Work cannot be completed on or prior to the expiration of the Contract Time; or (vi) the CMR fails to correct defective Work as required by the Contract Documents or otherwise defaults in its obligation to perform the Work in a skilled and expeditious manner, or refuses or fails to supply sufficient labor, Materials, Equipment and facilities to assure the proper progress of the Work; or (vii) the CMR fails to make prompt payment to any Subcontractors, or for Materials or labor, or fails to remove, by bonding or otherwise, any lien recorded or suit commenced by any Subcontractors or Supplier against the Airport Authority or the Site; or (viii) the CMR disregards in any material respect laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; or (ix) the CMR fails to comply with the instructions or directions of the Airport Authority or the Design Professional given in accordance with the terms of the Contract Documents, including, without limitation, failure to commence the Work as provided in the Notice to Proceed; or (x) the CMR otherwise violates or fails to comply with any material provision of the Contract Documents, then, and in any such event, the Airport Authority may give notice of such default to the CMR and, if the CMR fails to cure such default within ten (10) Calendar Days after the date the CMR receives such notice, the Airport Authority may, without prejudice to any other right or remedy, terminate the Contract, or any portion of the Contract that the Airport Authority determines to be affected by the default, or may forebear termination of the Contract and direct the CMR to discontinue the Work or any designated portion thereof, and, in either case, the Airport Authority may take possession of the Site or any portion thereof and possession and use of any and all Materials, Equipment, tools, construction Equipment and machinery thereon owned by the CMR and may finish the Work or any portion thereof by whatever method it may deem expedient, and hold the CMR and its sureties liable in damages for breach of the Contract. In either such case the CMR shall not be entitled to receive any further payment until the Work is fully completed. The Airport Authority shall not be liable for any depreciation, loss or damage to such Materials, Equipment or tools during such use thereof, nor thereafter prior to removal thereof by the CMR after completion of the Work. The Airport Authority may, at its option, require or permit the CMR's Surety or Sureties to complete the Work in accordance with the Contract

Documents. The CMR shall continue performance of the Contract to the extent not terminated pursuant to the provision of this Article.

- (2) When the Work is fully completed, if the costs incurred by the Airport Authority in finishing the Work, including the cost of any additional services of the Design Professional or other consultants of the Airport Authority and compensation for additional managerial and administrative services, additional financing, overhead and other costs, when added to the payments made to the CMR prior to termination, exceed the Contract Price, the CMR or its Sureties shall pay the amount of such excess to the Airport Authority with interest thereon from the date incurred by the Airport Authority until paid by the CMR or its Surety at the rate of three percent (3%) in excess of the rediscount rate then charged by the Federal Reserve Bank of Chicago. If the sum of such costs and payments is less than the Contract Price, the CMR shall be paid for any costs, as certified by the Design Professional and approved by the Airport Authority, incurred by the CMR but not paid for prior to the termination, to the extent that such payment does not cause the total of payments to the CMR when added to the cost of finishing the Work to exceed the Contract Price, and any balance shall be retained by the Airport Authority.
- (3) In case of such termination of the Contract pursuant to this Section, the Airport Authority may, at its election, assume and become liable for obligations, commitments and unsettled claims that the CMR has previously undertaken or incurred in good faith in connection with the Work. Without limiting the generality of the foregoing, the Airport Authority shall have the right (but shall have no obligation) to assume and/or assign to a general contractor or construction manager or other third party who is qualified and has sufficient resources to complete the Work, the rights of the CMR under its Subcontracts with any or all Subcontractors. In the event of such assumption or assignment by the Airport Authority, no such Subcontractors shall have any claim against the Airport Authority or such third party for Work performed by such Subcontractors or other matters arising prior to termination of the Contract, and the Airport Authority or such third party, as the case may be, shall be liable only for obligations to the Subcontractors arising after such assumption. Should the Airport Authority so elect, the CMR shall execute and deliver all such documents and take all such steps, including the legal assignment of its contractual rights, as the Airport Authority may require, for the purpose of fully vesting in itself the rights and benefits of the CMR under such Subcontracts or other obligations or commitments. All payments due the CMR hereunder shall be subject to a right of offset by the Airport Authority for expenses and damages suffered by the Airport Authority as a result of any default, acts or omissions of the CMR.

c. TERMINATION BY THE AIRPORT AUTHORITY FOR CONVENIENCE

- (1) The Airport Authority may, at any time upon at least seven (7) Calendar Days' written notice, terminate the employment of the CMR with respect to the Work or any portion thereof. If the Airport Authority terminates the Contract in whole or in part for its convenience, the Airport Authority shall make payment to the CMR for: (i) Work completed in conformance with the Contract requirements prior to termination, including a reasonable fee

based on the Work completed; (ii) the CMR's actual cost of the Work in process and Materials properly transferred to the Airport Authority (which shall be limited to those Materials that CMR cannot use itself or transfer to others); (iii) the CMR's actual costs of settling claims by Subcontractors or others for actual costs that are rendered unrecoverable by the termination (e.g. standard restocking charges imposed by vendors for accepting Material back, non-refundable security deposits, Materials purchased but not installed which cannot be returned to the vendor or used elsewhere, and termination charges for leased Equipment); provided, however, that the CMR shall use its best efforts to mitigate such penalties or damages; and (iv) the CMR's other actual direct costs of carrying out the termination, including costs necessarily incurred to protect property in the CMR's possession in which the Airport Authority has an interest until disposal instructions from the Airport Authority have been received. The Airport Authority's obligations to the CMR upon termination shall not exceed those the Airport Authority would have had to the CMR in the absence of termination. The Airport Authority may also pay to the CMR fair compensation either by purchase or rental at the election of the Airport Authority for any Equipment retained by the Airport Authority. The CMR shall not receive any fee or profit on account of Work not completed.

- (2) Within thirty (30) Calendar Days after the effective date of termination of the Contract, the CMR shall submit to the Airport Authority an itemized statement of all amounts claimed by the CMR under this Section 80-09(c) titled TERMINATION OR SUSPENSION BY THE OWNER FOR CONVENIENCE. The Airport Authority shall have no obligation for and shall not be required to make payments to the CMR, directly or on account of claims by CMR's Subcontractors, for loss of anticipated profit, unabsorbed overhead, interest on claims, product development, architect/engineering costs, tooling, facilities and Equipment rearrangement costs or rental, unamortized depreciation costs, or general administrative burden charges (unrelated to the actual administration of the termination as provided above), resulting from the termination of the Contract. The Airport Authority, upon payment of any approved accrued amounts so invoiced, shall have no further liability or obligation to the CMR whatsoever for any further fees, expenses or payment. By accepting the payment, the CMR confirms that it has been compensated in full. The Airport Authority may audit the CMR's Records before payment to verify the amounts requested in the CMR's termination claim. Under no circumstance shall the CMR be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination. The CMR shall, as a condition of receiving the payments referred to in this subparagraph, execute and deliver all such documents and take all such steps as reasonably requested by the Airport Authority, including the legal assignment of its contractual rights under such obligations or commitments, including, at the Airport Authority's option, on a case by case basis, each Subcontract previously entered into by the CMR and approved by the Airport Authority.
- (3) If, after notice of termination of the Contract by the Airport Authority for any of the causes listed in the Section 80-09(b) titled TERMINATION BY THE OWNER FOR CAUSE, it is determined that the CMR was not in breach or

default, the termination shall be deemed to have been for the convenience of the Airport Authority. In such event the CMR may recover from the Airport Authority payment in accordance with this Section 80-09(c) titled TERMINATION BY THE OWNER FOR CONVENIENCE.

d. ORDERLY TERMINATION

- (1)** If the Airport Authority terminates the Work or a portion thereof pursuant to this Section, DEFAULT AND TERMINATION OF CONTRACT, irrespective of whether the CMR disputes the Airport Authority's right to terminate the Contract, the CMR shall, except as otherwise directed by the Airport Authority:
- (i)** stop work under the Contract to the extent of the Work that is terminated as specified in the notice of termination;
 - (ii)** enter into no further purchase orders, Subcontracts or other commitments for Materials, Equipment, services or other elements of the Work, except as may be necessary to make the Work and the Site safe and to complete any portion of the Work that is not terminated or assigned;
 - (iii)** terminate all purchase orders and Subcontracts and settle all outstanding liabilities and claims arising out of the termination of the Contract, upon terms and conditions satisfactory to the Airport Authority, and submit within thirty (30) Calendar Days after the effective date of termination a final report listing all Subcontractors, Suppliers, creditors and other parties to which the CMR has incurred financial obligations in connection with the Contract, and the status of payment to all such parties and any claims or potential claims from such parties, and including copies of all supporting receipts and other documents evidencing the expenditure of funds by the CMR relating to the Contract;
 - (iv)** transfer title and deliver to the Airport Authority (i) the fabricated or unfabricated parts, Equipment, work in process, supplies and other Materials produced or acquired in connection with the execution of the terminated and/or assigned Work; and (ii) all Plans, Drawings, work product, documents, materials including all schedules, lists or data bases required to be maintained and other property (whether in hard copies or in electronic or magnetic media) which, if the Contract had not been terminated and/or the designated Subcontracts not assigned, the CMR would have been required to furnish to the Airport Authority or which are necessary for an orderly transition of the assigned Subcontracts to the Airport Authority or substitute contractors, and carry out such directives as the Airport Authority may issue concerning the safeguarding or disposition of files and property;
 - (v)** take such action as may be reasonably necessary, or as the Airport Authority may direct, to protect and preserve the property related to the Contract and/or the assigned Subcontracts that is in the possession of the CMR and in which the Airport Authority has or will acquire an interest;

- (vi) complete performance of any part of the Work not terminated or assigned;
 - (vii) if directed by the Airport Authority, use its best efforts to sell any property referred to in clause (v) above, in a manner, at times and at a price or prices authorized or directed by the Airport Authority, provided that the CMR shall not be required to extend credit to any purchaser, and the CMR may, itself, acquire any such property at a price not less than the CMR's costs. The proceeds of any such sale or disposition shall be applied in reduction of any payments to be made by the Airport Authority to the CMR or paid in such manner as the Airport Authority may direct;
 - (viii) if the Airport Authority exercises its right to assignment, (a) assign to the Airport Authority, as owner of the Work, or to any substitute contractor(s) designated by the Airport Authority, all of the right, title and interest of the CMR in each designated Subcontract, including purchase orders and agreements with Suppliers, vendors and service providers; and (b) execute and deliver all instruments and documents and take such steps as the Airport Authority may require to fully vest the Airport Authority or its designated substitute contractor(s) with all of the CMR's right, title and interest, including any benefits and information, with respect to such Subcontracts; and
 - (ix) after securing the Work and the Site, immediately vacate the same, taking no action that will interfere with or obstruct the commencement or continuation, by the Airport Authority or any other person or entity, of efforts to complete the Work.
- (2) Upon termination of the Contract, whether under Section 80-09, DEFAULT AND TERMINATION OF CONTRACT, or Section 80-10, TERMINATION FOR NATIONAL EMERGENCIES, upon Final Completion of the Work, all records, data, Plans, Drawings, notes, reports and other documents ("Records") prepared by the CMR under this Contract or in anticipation of this Contract shall, at the option of the Airport Authority, become the Airport Authority's exclusive property, whether or not in the possession of the CMR. The Records shall be free from any claim or retention of rights on the part of the CMR. The CMR acknowledges that any intentional failure or delay by the CMR to deliver the Records to the Airport Authority will cause irreparable injury to the Airport Authority not adequately compensable in damages and for which the Airport Authority has no adequate remedy at law. The CMR will pay the Airport Authority \$500.00 per day as liquidated damages, and not as a penalty, for each day after demand by the Airport Authority until it delivers the Records to the Airport Authority. The Airport Authority may seek and obtain injunctive relief in a court of competent jurisdiction and compel delivery of the Records, which relief the CMR hereby consents to, as well as all applicable damages and costs. The Airport Authority shall have unrestricted use of the Records for the purpose of completing the Work or for any other purpose. Each party will assist the other party in the orderly termination of the Contract.

80-10 TERMINATION FOR NATIONAL EMERGENCIES

The Airport Authority shall terminate the Contract or portion thereof by written notice when the CMR is prevented from proceeding with the Contract as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense.

When the Contract, or any portion thereof, is terminated before completion of all items of Work in the Contract, payment will be made for the actual number of units or items of Work completed at the Contract Price or as mutually agreed for items of Work partially completed or not started. No claims or loss of anticipated profits shall be considered.

Reimbursement for organization of the Work, and other overhead expenses, (when not otherwise included in the Contract) and moving Equipment and Materials to and from the job will be considered, the intent being that an equitable settlement will be made with the CMR.

Acceptable Materials, obtained or ordered by the CMR for the Work and that are not incorporated in the Work shall, at the option of the CMR, be purchased from the CMR at actual cost as shown by receipted bills and actual cost records at such points of delivery as may be designated by the Design Professional.

Termination of the Contract or a portion thereof shall neither relieve the CMR of his/her responsibilities for the completed Work nor shall it relieve his/her Surety of its obligation for and concerning any just claim arising out of the Work performed.

80-11 WORK AREA, STORAGE AREA AND SEQUENCE OF OPERATIONS

The CMR shall obtain approval from the Design Professional prior to beginning any work in all areas of the Airport. No operating Runway, Taxiway, or Air Operations Area (AOA) shall be crossed, entered, or obstructed while it is operational. The CMR shall plan and coordinate his/her work in such a manner as to insure safety and a minimum of hindrance to flight operations. All CMR Equipment and Material stockpiles shall be stored outside any runway safety area. No Equipment will be allowed to park within the approach area of an active Runway at any time. No Equipment shall be within a runway safety area at any time.

80-12 SITE SECURITY

The CMR shall, prior to issuance of the first Notice to Proceed, prepare a written site security program, in accordance with the applicable Contract Documents, which shall be submitted to the Airport Authority and, upon acceptance by the Airport Authority, implemented for the duration of the Project. Without limitation, the CMR shall provide security watch service at all such times as are necessary to protect the interests of the CMR and the Airport Authority and to provide for the safety and security of the general public and other users of the Airport, including employees and contractors of the Airport Authority and the Design Professional, and other persons who may be affected by the Work, and to exclude unauthorized persons from the Site. The CMR shall take all necessary precautions to prevent loss or damage caused by vandalism, theft, burglary, pilferage, or unexplained disappearance of property of the Airport Authority forming part of the Work, or located within the Site. The CMR shall have full responsibility for the security of such property of the Airport Authority and shall reimburse the Airport Authority for any such loss, damage or injury resulting from vandalism, theft, burglary, pilferage, unexplained disappearance or any other cause to the extent that the same is not covered by the Airport Authority's insurance.

80-13 ADDITIONAL INFORMATION

Recognizing that the Airport Authority may find it necessary during the progress of the Work to establish the current status of performance under the Contract Documents, the CMR or any Subcontractor shall, without limitation of any other requirements of the Contract Documents, promptly provide to the Airport Authority upon request statements, documents or information

regarding the status of the Work, compliance of the Work with the Contract Documents, compliance by the CMR or any Subcontractor with the Contract Documents, the names of Subcontractors or Suppliers, amounts due or to become due or amounts previously paid to Subcontractors or Suppliers, estimates of the portion of the Work completed and the cost of completing the Work, and such other matters within the scope of the CMR's performance under the Contract Documents as the Airport Authority may reasonably require. Upon completion of the Work, the CMR will provide to the Airport Authority, or to others as requested by the Airport Authority, a certification (in a form acceptable to such parties) that the Work has been completed in accordance with the Contract Documents, and as to compliance by the CMR with the requirements of the Contract and such other matters within the scope of the CMR's performance under the Contract Documents as the Airport Authority may require.

END OF SECTION 80

Section 90 Measurement and Payment

90-01 MEASUREMENT OF QUANTITIES

All Work completed under the Contract will be measured by the Design Professional, or his/her authorized representatives, using United States Customary Units of Measurement or the International System of Units.

The method of measurement and computations to be used in determination of quantities of Material furnished and of Work performed under the Contract will be those methods generally recognized as conforming to good engineering practice.

Unless otherwise specified, longitudinal measurements for area computations will be made horizontally, and no deductions will be made for individual fixtures (or leave-outs) having an area of 9 sq ft (0.8 square meter) or less. Unless otherwise specified, transverse measurements for area computations will be the neat dimensions shown on the Plans or ordered in writing by the Design Professional.

Structures will be measured according to neat lines shown on the Plans or as altered to fit field conditions.

Unless otherwise specified, all Contract Items which are measured by the linear foot such as electrical ducts, conduits, pipe culverts, underdrains, and similar items shall be measured parallel to the base or foundation upon which such items are placed.

In computing volumes of excavation the average end area method or other acceptable methods will be used.

The thickness of plates and galvanized sheet used in the manufacture of corrugated metal pipe, metal plate pipe culverts and arches, and metal cribbing will be specified and measured in decimal fraction of in.

The term "ton" will mean the short ton consisting of 2,000 lb (907 kg) avoirdupois. All Materials that are measured or proportioned by weights shall be weighed on accurate, approved scales by competent, qualified personnel at locations designed by the Design Professional. If Material is shipped by rail, the car weight may be accepted provided that only the actual weight of Material is paid for. However, car weights will not be acceptable for Material to be passed through mixing plants. Trucks used to haul Material being paid for by weight shall be weighed empty daily at such times as the Design Professional directs, and each truck shall bear a plainly legible identification mark.

Materials to be measured by volume in the hauling vehicle shall be hauled in approved vehicles and measured therein at the point of delivery. Vehicles for this purpose may be of any size or type acceptable to the Design Professional, provided that the body is of such shape that the actual contents may be readily and accurately determined. All vehicles shall be loaded to at least their water level capacity, and all loads shall be leveled when the vehicles arrive at the point of delivery.

When requested by the CMR and approved by the Design Professional in writing, Material specified to be measured by the cubic yard (cubic meter) may be weighed, and such weights will be converted to cubic yards (cubic meters) for payment purposes. Factors for conversion from

weight measurement to volume measurement will be determined by the Design Professional and shall be agreed to by the CMR before such method of measurement of pay quantities is used.

Bituminous Materials will be measured by the gallon (liter) or ton (kg). When measured by volume, such volumes will be measured at 60 °F (15 °C) or will be corrected to the volume at 60 °F (15 °C) using ASTM D 1250 for asphalts or ASTM D 633 for tars.

Net certified scale weights or weights based on certified volumes in the case of rail shipments will be used as a basis of measurement, subject to correction when bituminous Material has been lost from the car or the distributor, wasted, or otherwise not incorporated in the Work.

When bituminous Materials are shipped by truck or transport, net certified weights by volume, subject to correction for loss or foaming, may be used for computing quantities.

Cement will be measured by the ton (kg) or hundredweight (km).

Timber will be measured by the thousand feet board measure (MFBM) actually incorporated in the structure. Measurement will be based on nominal widths and thicknesses and the extreme length of each piece.

The term "lump sum" when used as an item of payment will mean complete payment for the Work described in the Contract.

When a complete structure or structural unit (in effect, "lump sum" work) is specified as the unit of measurement, the unit will be construed to include all necessary fittings and accessories.

Rental of Equipment will be measured by time in hours of actual working time and necessary traveling time of the Equipment within the limits of the Work. Special Equipment ordered by the Design Professional in connection with Force Account Work will be measured as agreed in the Change Order or Supplemental Agreement authorizing such Force Account Work as provided in the subsection titled PAYMENT FOR EXTRA AND FORCE ACCOUNT WORK of this section.

When standard manufactured items are specified such as fence, wire, plates, rolled shapes, pipe conduit, etc., and these items are identified by gauge, unit weight, section dimensions, etc., such identification will be considered to be nominal weights or dimensions. Unless more stringently controlled by tolerances in cited Specifications, manufacturing tolerances established by the industries involved will be accepted.

Scales for weighing Materials which are required to be proportioned or measured and paid for by weight shall be furnished, erected, and maintained by the CMR, or be certified permanently installed commercial scales.

Scales shall be accurate within one-half percent of the correct weight throughout the range of use. The CMR shall have the scales checked under the observation of the Inspector before beginning Work and at such other times as requested. The intervals shall be uniform in spacing throughout the graduated or marked length of the beam or dial and shall not exceed one-tenth of 1 percent of the nominal rated capacity of the scale, but not less than 1 pound (454 grams). The use of spring balances will not be permitted.

Beams, dials, platforms, and other scale Equipment shall be so arranged that the operator and the Inspector can safely and conveniently view them.

Scale installations shall have available ten standard 50-pound (2.3 km) weights for testing the weighing Equipment or suitable weights and devices for other approved Equipment.

Scales must be tested for accuracy and serviced before use at a new site. Platform scales shall be installed and maintained with the platform level and rigid bulkheads at each end.

Scales “overweighing” (indicating more than correct weight) will not be permitted to operate, and all Materials received subsequent to the last previous correct weighting-accuracy test will be reduced by the percentage of error in excess of one-half of 1 percent.

In the event inspection reveals the scales have been underweighing (indicating less than correct weight), they shall be adjusted, and no additional payment to the CMR will be allowed for Materials previously weighed and recorded.

All costs in connection with furnishing, installing, certifying, testing, and maintaining scales; for furnishing check weights and scale house; and for all other items specified in this subsection, for the weighing of Materials for proportioning or payment, shall be included in the unit contract prices for the various items of the Project.

When the estimated quantities for a specific portion of the Work are designated as the pay quantities in the Contract, they shall be the final quantities for which payment for such specific portion of the Work will be made, unless the dimensions of said portions of the Work shown on the Plans are revised by the Design Professional. If revised dimensions result in an increase or decrease in the quantities of such Work, the final quantities for payment will be revised in the amount represented by the authorized changes in the dimensions.

90-02 SCOPE OF PAYMENT

- a. The Airport Authority shall pay to the CMR, in consideration for the CMR’s proper performance of the Contract and completion of the Work, and in accordance with and subject to the applicable provisions of the Contract Documents, the “Contract Price” in an amount not to _____.
- b. The Allowances listed in **Exhibit ALL** are included in the Contract Price. Whenever the actual cost attributable to the Allowance item is more or less than the Allowance amount stated in **Exhibit ALL**, the Contract Price shall be adjusted by Change Order in accordance with the provisions of Section 80. The amount of such Change Order shall be the difference between the costs and other amounts included in the particular Allowance item (as set forth in **Exhibit ALL**) actually incurred by the CMR and the stated Allowance amount.

MAY ADD OPTIONS and ALTERNATES from RFB

- c. Unit price items and estimated quantities therefore, as provided by the CMR in its RFB response includes all costs for furnishing and installing the estimated quantity of each such item as stated, including all indirect costs, overhead, fees and profit. Subject to the provisions of the subsection of this section titled METHODS FOR DETERMINING ADJUSTMENTS IN CONTRACT PRICE, if the quantity of any such unit price item as actually and properly furnished by the CMR, and approved by the Design Professional, differs from the estimated quantity for such item as set forth herein, the Contract Price shall be adjusted by Change Order based upon the actual required quantity of such item and the applicable unit price as set forth in Price Form. The unit prices specified shall be applicable to both increases and decreases in the Contract Price on an equal basis.
- d. The CMR shall receive and accept compensation provided for in this Contract as full payment for furnishing all Materials, for performing all Work under the Contract in a complete and acceptable manner, and for all risk, loss, damage, or expense of whatever character arising out of the nature of the Work or the prosecution

thereof, subject to the provisions of the subsection titled NO WAIVER OF LEGAL RIGHTS of Section 70.

- e. When the “basis of payment” subsection of a technical specification requires that the Contract Price (price bid) include compensation for certain Work or Material essential to the item, this same Work or Material will not also be measured for payment under any other Contract Item which may appear elsewhere in the Contract, Plans, or Specifications.

90-02.1 APPLICATION FOR PAYMENT

- a. On a schedule established by the Airport Authority, generally seven (7) Calendar Days prior to formal submission of each Application for Payment, the CMR shall submit the Application for Payment in draft form, including all supporting materials, to the Design Professional. Such Applications for Payment shall be on a form provided or approved by the Airport Authority, shall be based upon the approved Price Form, and shall be accompanied by such certifications, accountings, invoices, payrolls, receipted bills and other supporting documentation and information substantiating the CMR’s right to payment as the Design Professional or the Airport Authority may request. Applications for Payment shall show the total value of the Work performed and Materials furnished and installed by the CMR and each Subcontractor to date, the value of the Work completed during the payment period, and the percentage of completion to-date for each line item of Work. The CMR shall meet with such parties as necessary to review the draft Application for Payment, and the CMR shall supply additional information as requested by the Design Professional or the Airport Authority so as to substantiate all amounts to be included in the Application for Payment. Upon agreement of the parties, the CMR shall formally submit the Application for Payment. Two complete copies of the application package, including certifications of payment and release of claims, DBE reports and other attachments as required by the Contract Documents or by Airport Authority policy, shall be forwarded to the Airport Authority’s finance division at the address set forth in the Contract. Certified payroll reports shall be submitted weekly to:

Attention: DBE Coordinator
Capital Region Airport Authority
Administrative Offices – 3rd Floor
Capital Region International Airport
4100 Capital City Blvd.
Lansing, MI 48906

The Airport Authority shall not be responsible for delays in processing Applications for Payment resulting from the CMR’s failure to deliver the application to the proper address or to submit a complete application.

- b. Such Applications for Payment may include Materials or Equipment not incorporated in the Work but delivered and suitably stored at the Site only if approved in advance in writing by the Airport Authority in its sole discretion. Payment may be requested for Materials or Equipment suitably stored at some other location agreed upon in writing. Payments for Materials or Equipment stored on or off the Site shall be conditioned upon submission by the CMR of bills of sale, paid invoices and such other documents, information or procedures as may be required by the Design Professional or the Airport Authority to establish the Airport Authority’s title to such Materials or Equipment free and clear of all liens, claims,

security interests or encumbrances (collectively referred to in the Contract Documents as “liens”), or otherwise to protect the Airport Authority’s interests, including provision for appropriate property insurance and transportation to the Site for those Materials and Equipment stored off the Site.

- c. The CMR warrants that title to all Work, including all Materials and Equipment covered by an Application for Payment, will pass to the Airport Authority, free and clear of all liens, automatically without further action by the parties upon the first to occur of (i) incorporation in the construction or (ii) the receipt of payment by the CMR. Transfer of title to the Airport Authority shall not relieve the CMR of any of its duties or obligations under the Contract Documents or of any responsibility or liability for the safe delivery and safeguarding, custody, or warehousing of the Materials or Equipment, nor shall it constitute any waiver of the Airport Authority’s right to absolute fulfillment by the CMR of all of the terms of the Contract, nor shall it commence any warranty period (all warranty periods shall commence not earlier than Substantial Completion). The CMR warrants that no Work, including Materials or Equipment covered by an Application for Payment, shall have been acquired by the CMR, or by any other person performing Work at the Site or furnishing Materials and Equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or any other secured party, or otherwise imposed by the CMR or any other person or entity.
- d. Each Application for Payment shall be accompanied by a certification of payment and release of claims, in a form provided or approved by the Airport Authority, from the CMR and from each Subcontractor stating that it has been paid all amounts due it on the basis of the previous Applications for Payment, or else stating the amount not so paid and the reason for the discrepancy, and stating that it has no claims other than those specified in the certification. CMR shall attach notarized sworn statements for payments, pursuant to such form as provided by or approved by the Airport Authority, made to Subcontractors and Material Suppliers, conditional waivers (as necessary) and unconditional waivers for payments made to the CMR by the Airport Authority. In the event of any such discrepancy or pending claims noted in a monthly certification by a Subcontractor, the CMR shall furnish its own written explanation to the Airport Authority through the Design Professional.
- e. The Airport Authority will, after receipt of the CMR’s formal submission of the Application for Payment, either process the Application for Payment for such amount as the Airport Authority determines is properly due, or notify the CMR in writing the reasons for withholding payment. Approval of an Application for Payment by the Airport Authority shall not constitute a waiver of any obligations of the CMR under the Contract Documents.
- f. Following the Airport Authority’s approval for payment for all or any portion of an Application for Payment, the Airport Authority shall pay to the CMR all approved amounts of the Application for Payment, less retainage, and no later than forty five (45) days after the receipt of the CMR’s complete Application for Payment as required by the Contract Documents. Any portion of an Application for Payment disapproved by the Airport Authority shall be paid to the CMR within ten (10) business days after the correction by the CMR of all deficiencies or other reasons resulting in such disapproval and the approval of such corrections by the Airport Authority. If the Airport Authority determines to have the deficiencies corrected by

another contractor in accordance with the Contract, the cost thereof shall be deducted from the Contract Price as provided in the subsection titled SCOPE OF PAYMENT of Section 90.

- g.** CMR shall promptly pay all amounts due to each of its Subcontractors and Material Suppliers, upon receipt of payment from the Airport Authority, and out of the amount paid to the CMR on account of the portion of the Work performed by such Subcontractor or Material Supplier, less retainage as provided herein, and shall require each such Subcontractor and Material Supplier to make payments to its Subcontractors and Material Suppliers in a similar manner. The Airport Authority shall have no obligation to pay or to see to the payment of money to a Subcontractor or Supplier.

90-03 COMPENSATION FOR ALTERED QUANTITIES

When the accepted quantities of Work vary from the quantities in the proposal, the CMR shall accept as payment in full, so far as Contract Items are concerned, payment at the original Contract Price for the accepted quantities of Work actually completed and accepted. No allowance, except as provided for in the subsection titled ALTERATION OF WORK AND QUANTITIES of Section 40 will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by the CMR which results directly from such alterations or indirectly from his/her unbalanced allocation of overhead and profit among the Contract Items, or from any other cause.

90-04 PAYMENT FOR OMITTED ITEMS

As specified in the subsection titled OMITTED ITEMS of Section 40, the Design Professional shall have the right to omit from the Work (order nonperformance) any Contract Item, except Major Contract Items, in the best interest of the Airport Authority.

Should the Design Professional omit or order nonperformance of a Contract Item or portion of such Contract Item from the Work, the CMR shall accept payment in full at the Contract prices for any Work actually completed and acceptable prior to the Design Professional's order to omit or nonperform such Contract Item.

Acceptable Materials ordered by the CMR or delivered on the Work prior to the date of the Design Professional's order will be paid for at the actual cost to the CMR and shall thereupon become the property of the Airport Authority.

In addition to the reimbursement hereinbefore provided, the CMR shall be reimbursed for all actual costs incurred for the purpose of performing the omitted Contract Item prior to the date of the Design Professional's order. Such additional costs incurred by the CMR must be directly related to the deleted Contract Item and shall be supported by certified statements by the CMR as to the nature the amount of such costs.

90-05 PAYMENT FOR EXTRA AND FORCE ACCOUNT WORK

Extra Work, performed in accordance with the subsection titled EXTRA WORK of Section 40, will be paid for at the Contract prices or agreed prices specified in the Change Order or Supplemental Agreement authorizing the Extra Work. When the Change Order or Supplemental Agreement authorizing the Extra Work requires that it be done by Force Account, such Force Account shall be measured and paid for based on expended labor, Equipment, and Materials as provided in this Section 90.

- a. Miscellaneous.** No additional allowance will be made for general superintendence, the use of small tools, or other costs for which no specific allowance is herein provided.

- b. **Comparison of Record.** The CMR and the Design Professional shall compare Records of the cost of Force Account Work at the end of each Working Day. Agreement shall be indicated by signature of the CMR and the Design Professional or their duly authorized representatives.
- c. **Statement.** No payment will be made for Work performed on a Force Account basis until the CMR has furnished the Design Professional with duplicate itemized statements of the cost of such Force Account Work detailed as follows:
 - (1) Name, classification, date, daily hours, total hours, rate and extension for each laborer and foreman.
 - (2) Designation, dates, daily hours, total hours, rental rate, and extension for each unit of machinery and Equipment.
 - (3) Quantities of Materials, prices, and extensions.
 - (4) Transportation of Materials.
 - (5) Cost of property damage, liability and workman's compensation insurance premiums, unemployment insurance contributions, and social security tax.

Statements shall be accompanied and supported by a receipted invoice for all Materials used and transportation charges. However, if Materials used on the Force Account Work are not specifically purchased for such work but are taken from the CMR's stock, then in lieu of the invoices the CMR shall furnish an affidavit certifying that such Materials were taken from his/her stock, that the quantity claimed was actually used, and that the price and transportation claimed represent the actual cost to the CMR.

90-05.1 METHODS FOR DETERMINING ADJUSTMENTS IN CONTRACT PRICE

- a. The methods to be used to determine an adjustment in the Contract Price necessitated by Changes Orders or negotiated pursuant to these provisions, including work covered by a claim, also referred to herein as the "work involved," are limited to the following:
 - (1) where the Work involved is covered or is of the same character as Work covered by lump sum prices in the Contract – on the basis of those lump sum prices;
 - (2) where the Work involved is covered by or is of the same character as any unit price Work specified in the Contract – by application of those unit prices to the quantities of the items involved (subject to the following provisions of this of the subsection titled METHODS FOR DETERMINING ADJUSTMENTS IN CONTRACT PRICE of this Section 90 and other provisions of the Contract covering unit price Work);
 - (3) where the Work involved is not covered by either of the preceding methods – by mutual acceptance of a lump sum price negotiated on the basis of the CMR's itemized estimate of the anticipated cost of the Work involved, determined as specified in this Article, and CMR's fee determined as provided in the subsection titled CONTRACTOR'S FEE of this Section 90;
 - (4) where the Work involved is not covered by either of the first two methods, and the Airport Authority and the CMR cannot achieve agreement on the anticipated cost of the Work involved, on the basis of the Airport Authority's determination, in consultation with the Design Professional, of the fair

estimated cost or value of the Work involved, and a CMR's fee determined as provided in the subsection titled CONTRACTOR'S FEE of this Section 90;

- (5) where the Work involved is not covered by either of the first two methods, and the Airport Authority directs the CMR to proceed with the Work involved with payments to be made therefore on the basis of actual costs – on the basis of the actual cost of the Work involved, determined as specified in this Article and a CMR's fee, if any, determined as provided in the subsection titled CONTRACTOR'S FEE of this Section 90; and
- (6) where the Work involved is not covered by any of the preceding methods, and when payment is to be determined by a court of competent jurisdiction – it is agreed that the actual cost method referred to in clause (5) shall be an appropriate method for determining the cost of the Work involved.
- b. In computing either anticipated or actual costs, the phrase “cost of the Work involved” means the sum of all incremental costs which would be, or actually were, necessarily incurred by the CMR in the proper performance of the Work involved. Those costs shall be in amounts no higher than those prevailing in the locality of the Project, and shall include only the appropriate items for labor, Material/Equipment and subcontracted Work, and supplemental costs specified below.
- c. Unit prices stated in the Contract shall, unless otherwise determined by the Airport Authority, be used to determine the adjustments in the Contract Price as a result of changes in the scope or quantity of Work for which unit prices are specified. Unless otherwise stated in the Contract, such unit prices shall be deemed to include a proportionate share of the CMR's and all Subcontractors' overhead, profit, bonds and insurance, as well as all labor, Materials, Equipment, delivery and disposal to perform the Work item complete, and all other direct or indirect expenses of the CMR and Subcontractors, as applicable to that class of Work, and shall be the exact amount per unit to be paid to the CMR in the case of increases in the quantity of Work, or refunded to the Airport Authority in the case of decreases.
- d. Notwithstanding the inclusion of unit prices in the Contract Documents, it shall be the Airport Authority's option to require the adjustment of the Contract Price on account of a change in Work covered by unit prices to be determined by one of the other methods stated in subsection titled METHODS FOR DETERMINING ADJUSTMENTS IN CONTRACT PRICE of this Section 90. If the Airport Authority elects to determine the adjustment based on unit prices, the Airport Authority will determine the actual quantities and classifications of unit price Work performed by the CMR. If the nature of the Work is such that its extent cannot readily be measured after the completion of such Work or any subsequent Work, the CMR shall keep daily Records, available at all times to the Design Professional for inspection, of the actual quantities of such Work put in place, and delivery receipts or other adequate evidence, acceptable to the Design Professional, indicating the quantities of Materials delivered to the Site for use in such unit price Work, and distinguishing such from other similar Material delivered for use in Work included in the base Contract Price. If so required by the Design Professional, Materials for use in unit price Work shall be stored apart from all other Materials on the Project.

- e. The Airport Authority will review with the CMR the Airport Authority's determinations on quantities and classifications of unit price Work before rendering a written decision (by recommendation of an Application for Payment or otherwise). Once given, a particular written decision of the Airport Authority shall be final and binding upon the CMR, unless, within twenty-one (21) Calendar Days after the date of that decision, the CMR delivers to the Airport Authority written notice of claim. Failure to file the notice of claim within such time period will be conclusively deemed to be a waiver of claim. The foregoing shall not be interpreted to limit or affect the rights of the Airport Authority to make adjustments in amounts included in an Application for Payment from the CMR in accordance with the provisions of the Contract Documents.
- f. If the Airport Authority elects to determine the adjustment to the Contract Price as provided in clauses (4), (5) or (6) of subparagraph (a) above, or if the method of determining the adjustment has not been established before the Work is begun, the CMR shall keep detailed daily Records of labor and Materials costs applicable to the Work as further provided below, which shall be delivered to the Airport Authority. Where the adjustment to the Contract Price will or may be determined on this (cost) basis, the CMR shall not begin performance of the Work involved unless or until the Airport Authority has determined, in writing, that the CMR's accounting system: (i) permits timely development of all cost data in a form reasonably acceptable to the Airport Authority, and (ii) is adequate to allocate costs in accordance with generally accepted cost accounting principles.

90-05.2 LABOR, MATERIAL/EQUIPMENT AND SUBCONTRACT COSTS

- a. Payroll costs shall be included for trade labor and foremen in the direct employ of the CMR assigned to the Site and engaged in furnishing and incorporating Materials or Equipment in the Work involved. Payroll costs shall include wages plus the necessary labor burdens, which may include social security, unemployment, workers' compensation, health and retirement benefits, vacation and holiday pay, and other payments pursuant to union agreements. When determining payroll costs under clause (5) of subparagraph (a) of the subsection titled METHODS FOR DETERMINING ADJUSTMENTS IN CONTRACT PRICE of this Section 90, daily time sheets, certified at the end of each Working Day by the Airport Authority and signed by the CMR, shall be the record upon which actual payroll costs shall be based. When determining payroll costs under clause (6) of subparagraph (a) of the subsection titled METHODS FOR DETERMINING ADJUSTMENTS IN CONTRACT PRICE of this Section 90, daily time sheets shall be valid only if they expressly correlate to the Work involved and if made when the Work involved was performed. For purposes of determining payroll costs under clauses (5) or (6) of subparagraph (a) the subsection titled METHODS FOR DETERMINING ADJUSTMENTS IN CONTRACT PRICE of this Section 90, the CMR is responsible for notifying the Airport Authority prior to starting Work so that the Airport Authority, with the CMR, may verify and certify the daily time sheets. If the CMR performs the Work without such prior notification to the Airport Authority, the CMR does so at its own risk; the CMR will not be compensated based on daily time sheets that have not been verified and certified by the Airport Authority.
- b. Payments by the CMR to Suppliers for all Material and Equipment in the Work involved, including transportation and storage costs, and necessary Suppliers' field services shall be included. All cash discounts shall accrue to the Airport Authority, if the Airport Authority advances funds to the CMR with which to make

payments. All trade discounts, rebates and refunds and all returns from sale of surplus items shall accrue to the Airport Authority, and the CMR shall make provisions so that they may be obtained. When required by the Airport Authority, the CMR shall obtain competitive bids from Suppliers and shall deliver such bids to the Airport Authority. When determining actual Material and Equipment costs, actual invoices segregating items associated with the Work involved shall be the record upon which actual costs shall be based.

- c. Payments by the CMR to Subcontractors for Work involved performed by Subcontractors shall be included. If required by the Airport Authority, the CMR shall obtain competitive detailed bids from three Subcontractors and shall deliver them to the Airport Authority who will then determine which bid will be selected. When determining Subcontractor costs at any tier, the Subcontractor's cost shall be determined in the same manner as the CMR's cost of the Work involved. Where the value of Work performed under a Change Order is determined by either a lump sum price or by the cost of the work involved, the amount allowed to a Subcontractor who performs the Work for overhead, superintendence and profit ("mark-up") shall not exceed fifteen percent (15%) of the net cost of the Work. If the Subcontractor who performs the Work is not a first tier Subcontractor, the first tier Subcontractor shall be allowed a mark-up not to exceed five percent (5%) of the net cost of the Work. The aggregate amount of all mark-ups to Subcontractors, regardless of the number of tiers of Subcontractors involved or the amount of the Change Order, shall not exceed twenty percent (20%). Such mark-ups shall include all costs and expenses not included in the cost of the change in the Work specified in subsections titled LABOR MATERIALS/EQUIPMENT AND SUBCONTRACT COSTS and EQUIPMENT COSTS of this Section 90. No mark-up shall be allowed on insurance, bond premiums or sales taxes.
- d. The CMR shall not subcontract any Work under a Change Order unless Work under the Contract of a similar type was previously subcontracted; and Subcontractors will not be allowed to further subcontract any work under a Change Order without the written approval and acceptance of the Airport Authority, unless work under the Contract of a similar type was previously subcontracted by them. All subcontracts shall be subject to the provisions of this Article insofar as applicable.

90-05.3 EQUIPMENT COSTS

- a. Equipment costs shall be included for rented, leased or owned Equipment required solely in connection with the Work involved in the change, provided the individual construction Equipment or machinery has a value in excess of \$1,000.00. Transportation, loading and unloading, installation, dismantling and removal costs shall be included only if such Equipment is or was transported to the Site solely to perform the Work involved. All Equipment costs shall cease when the Equipment is no longer necessary to perform the Work involved. Payroll costs for craft labor operating the Equipment shall be as provided in subsection titled LABOR, MATERIAL/EQUIPMENT AND SUBCONTRACT COSTS of this Section 90. Equipment costs shall be computed using the same accounting and estimating rules regardless of whether related to added or deleted items of Work.
- b. When determining Equipment costs under clause (5) of subparagraph (a) of the subsection titled METHODS FOR DETERMINING ADJUSTMENTS IN CONTRACT PRICE of this Section 90, daily Records listing the Equipment units,

operators, and actual usage, and certified at the end of each Working Day by the Airport Authority and signed by the CMR, shall be the record upon which actual Equipment use shall be based.

- c. Rented or owned Equipment at the Site required solely in connection with the Work involved in the change shall, to the extent not in actual use as a direct result of the change, be paid at the standby rates for rented Equipment as specified in clause (2) of subparagraph (a) of the subsection titled METHODS FOR DETERMINING ADJUSTMENTS IN CONTRACT PRICE of this Section 90. In no event shall the idle time claimed in a day exceed the established working schedule. Payments for idle Equipment shall come due only as long as the Equipment was idled solely by the actions of the Airport Authority or the Design Professional, and where the idle period exceeds that normally experienced for such Equipment.
- d. The Airport Authority shall have the right to require the CMR to purchase any item of Equipment (i.e., rather than renting the same). In such event the purchase price of such item shall be a chargeable cost. The CMR shall maintain such Equipment in good working order and condition during the term of this Agreement, and upon Final Completion or earlier termination of this Agreement (or, if requested by the Airport Authority, upon completion of use of such item on the Project), the CMR shall deliver the same, together with a warranty bill of sale and such other documents as may be necessary or desirable to legally transfer title free and clear of all encumbrances and liens, to the Airport Authority.

90-05.4 RENTED OR LEASED EQUIPMENT; OWNED EQUIPMENT

- a. Except as provided below, for Equipment rented or leased, the CMR shall be entitled to amounts based on negotiated rental or lease rates, but in no event shall the amounts exceed the hourly rates developed from the "Rental Rate Blue Book" published by Dataquest, Inc. or subsequent publisher in effect at the time of Equipment usage. In addition to the rental or leasing rate, operating costs shall not exceed the estimated hourly rate in the aforementioned guide.
 - (1) Hourly rates shall be developed by dividing the monthly Blue Book rates by 176 hours per month (the "weekly," "hourly," and "daily" rates listed in the Blue Book shall not be used). Rates in all cases shall be adjusted by application of the Rate Adjustment Tables (machine age adjustment) plus adjustments to eliminate Equipment Overhead plus Regional Adjustments.
 - (2) Standby rates shall be computed by using the full cost-of-facilities capital (CFC) hourly cost plus one half the hourly depreciation rates as used in the initial hourly calculation in clause (1) above.
 - (3) The equipment rate for usage in excess of eight hours per day shall be 50% of the base hourly rate as established in the initial hourly calculation in clause (1) above. The rates used for billing purposes will be those most economical to the Airport Authority based on the circumstances of actual usage and all applicable credits and discounts.
- b. For Equipment rented or leased from lessor firms associated with or owned by the CMR, the CMR shall be entitled to reimbursement as though the Equipment was owned Equipment, as specified below.
- c. For Equipment owned by the CMR, the CMR shall be entitled to costs based on its normal accounting practices, but in no event shall those costs plus the

estimated operating costs exceed the hourly rates as established in subsection a above.

90-05.5 CONTRACTOR'S FEE

- a. The CMR's fee on changes in the Work shall be twelve percent (12%) on Work performed by the CMR's own forces, and five percent (5%) on Work performed or furnished by Subcontractors or Suppliers. Such CMR's fee shall include, and shall represent full compensation to the CMR on account of, the CMR's profit, home office overhead, so-called general conditions and general requirement costs and all other site-based overhead costs, items described in subsection 90-05.6, and all other direct or indirect costs, expenses, liabilities and risks incurred by the CMR in connection with such change in the Work for which the CMR is not compensated through subsections 90-05.1, 90-05.2 and 90-05.3. The CMR's fee shall not be payable on bond premiums, insurance premiums, permit fees, any increase in the original Contract Price as a result of substitutions of Equipment or Materials which are functionally similar to Equipment and Materials originally specified, or increases in the cost or quantity of allowance items.
- b. The credit to the Airport Authority for any change that results in a net decrease in cost will be the amount of the actual net decrease in cost determined as provided herein plus a deduction in the CMR's fee by an amount equal to seven percent (7%) of such net decrease.
- c. When both additions and credits are involved in any change, the adjustment in the CMR's fee shall be computed on the net change in the cost of the Work involved.

90-05.6 COSTS NOT TO BE REIMBURSED

Where the change in the Contract Price is to be determined on the basis of the "cost of the Work involved," allowable costs shall not include the following: (i) salaries, bonuses and other compensation of and costs related to the CMR's management and executive personnel wherever stationed; (ii) expenses of the CMR's principal office or other offices (other than the site office); (iii) overhead and general expenses of any kind, including but not limited to office or fabrication shop overhead, bookkeeping and accounting, and drafting and printing costs; (iv) the CMR's capital expenses, including interest on the CMR's capital employed for the Work; (v) costs of machinery and Equipment owned or rented by the CMR, except as specifically provided above; (vi) costs incurred due to the fault, negligence or breach of contract of the CMR, Subcontractors, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, including, but not limited to, injury to persons or damage to property, correction or repair of damaged, defective or nonconforming work, disposal and replacement of Materials and Equipment incorrectly ordered or supplied, and making good damage to property not forming part of the Work, except to the extent reimbursement is received through the recovery of insurance proceeds; (vii) penalties, fines or costs imposed by governmental authorities in connection with or resulting from any knowing violation of or noncompliance with Applicable Laws by the CMR or any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable; (viii) legal fees incurred by the CMR, unless the same are incurred at the written direction, or with the prior written approval, of the Airport Authority; (ix) travel or meal expenses and personnel relocation expenses; (x) any cost incurred by the CMR as a result of knowing violation of or failure to comply with the Contract Documents by the CMR or any Subcontractor; and (xi) any other cost not specifically and expressly described in subsections 90-05.1, 90-05.2, and 90-05.3.

90-06 PARTIAL PAYMENTS

Partial payments will be made to the CMR as the Work progresses. Said payments will be based upon estimates, prepared by the Design Professional, of the value of the Work performed and Materials complete and in place in accordance with the Contract, Plans, and Specifications. Such partial payments may also include the delivered actual cost of those Materials stockpiled and stored in accordance with the subsection titled PAYMENT FOR MATERIALS ON HAND of this section. No partial payment will be made when the amount due to the CMR since the last estimate amounts to less than five hundred dollars.

The CMR is required to pay all Subcontractors for satisfactory performance of their contracts no later than thirty (30) Calendar Days after the CMR has received a partial payment. The Airport Authority must ensure prompt and full payment of retainage from the CMR to the Subcontractors within thirty (30) Calendar Days after the Subcontractor's work is satisfactorily completed. A Subcontractor's work is satisfactorily completed when all the tasks called for in the Subcontract have been accomplished and documented as required by the Airport Authority. When the Airport Authority has made an incremental acceptance of a portion of the Work, the Work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

From the total of the amount determined to be payable on a partial payment, ten percent (10%) of such total amount will be deducted and retained by the Airport Authority until the CMR has achieved fifty percent (50%) work completion as approved by the Airport Authority. Thereafter, the Airport Authority will not withhold retainage from subsequent progress payments. Retainage shall apply to all amounts included in the Applications for Payment.

The Airport Authority shall have the right, but not the obligation, to release a portion or all of the retainage related to a Subcontractor who achieves Final Completion of its subcontracted portion of the Work under its Subcontract substantially earlier than Final Completion of the entire Work, but only upon the written recommendation of the CMR that such retainage should be released.

At the time of Substantial Completion of the Work, the CMR may make written application for a partial release of retainage held by the Airport Authority. The Airport Authority shall have no obligation to approve such application. Should the Airport Authority agree to such request, considering the CMR's performance, the performance of the Subcontractors, the status of resolution of changed work and claims and other factors, the Airport Authority may release a portion of the retainage. The Airport Authority's agreement to any such partial release of retainage shall not change the percentage retained from future Applications for Payment for progress payments after the date of the partial release of retainage. If the Airport Authority agrees to a partial release of retainage, the Design Professional shall, at the Airport Authority's discretion and with the consent of the Surety, prepare estimates of both the Contract value and the cost of the remaining Work to be done.

The Airport Authority may retain an amount not less than twice the Contract value or estimated cost, whichever is greater, of the Work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the CMR at Final Completion.

Should the CMR exercise his/her option, as provided in the subsection titled PAYMENT OF WITHHELD FUNDS of this section, no such percent retainage shall be deducted.

It is understood and agreed that the CMR shall not be entitled to demand or receive partial payment based on quantities of Work in excess of those provided in the proposal or covered by approved Change Orders or Supplemental Agreements, except when such excess quantities have been determined by the Design Professional to be a part of the final quantity for the item of Work in question.

No partial payment shall bind the Airport Authority to the acceptance of any Materials or Work in place as to quality or quantity. All partial payments are subject to correction at the time of final payment as provided in the subsection titled ACCEPTANCE AND FINAL PAYMENT of this section.

The CMR shall deliver to the Airport Authority a complete release of all claims for labor and Material arising out of this Contract before the final payment is made. If any Subcontractor or Supplier fails to furnish such a release in full, the CMR may furnish a bond or other collateral satisfactory to the Airport Authority to indemnify the Airport Authority against any potential lien or other such claim. The bond or collateral shall include all costs, expenses, and attorney fees the Airport Authority may be compelled to pay in discharging any such lien or claim.

90-07 PAYMENT FOR MATERIALS ON HAND

Partial payments may be made to the extent of the delivered cost of Materials to be incorporated in the Work, provided that such Materials meet the requirements of the Contract, Plans, and Specifications and are delivered to acceptable sites on the Airport property or at other sites in the vicinity that are acceptable to the Airport Authority. Such delivered costs of stored or stockpiled Materials may be included in the next partial payment after the following conditions are met:

- a. The Material has been stored or stockpiled in a manner acceptable to the Design Professional at or on an approved site.
- b. The CMR has furnished the Design Professional with acceptable evidence of the quantity and quality of such stored or stockpiled Materials.
- c. The CMR has furnished the Design Professional with satisfactory evidence that the Material and transportation costs have been paid.
- d. The CMR has furnished the Airport Authority legal title (free of liens or encumbrances of any kind) to the Material so stored or stockpiled.
- e. The CMR has furnished the Airport Authority evidence that the Material so stored or stockpiled is insured against loss by damage to or disappearance of such Materials at any time prior to use in the Work.

It is understood and agreed that the transfer of title and the Airport Authority's payment for such stored or stockpiled Materials shall in no way relieve the CMR of his/her responsibility for furnishing and placing such Materials in accordance with the requirements of the Contract, Plans, and Specifications.

In no case will the amount of partial payments for Materials on hand exceed the Contract price for such Materials or the Contract price for the Contract Item in which the Material is intended to be used.

No partial payment will be made for stored or stockpiled living or perishable plant Materials.

The CMR shall bear all costs associated with the partial payment of stored or stockpiled Materials in accordance with the provisions of this subsection.

90-08 PAYMENT OF WITHHELD FUNDS

At the CMR's option, if an Airport Authority withholds retainage in accordance with the methods described in subsection 90-06 PARTIAL PAYMENTS, the CMR may request that the Airport Authority deposit the retainage into an escrow account. The Airport Authority's deposit of retainage into an escrow account is subject to the following conditions:

- a. The CMR shall bear all expenses of establishing and maintaining an escrow account and escrow agreement acceptable to the Airport Authority.

- b. The CMR shall deposit to and maintain in such escrow only those securities or bank certificates of deposit as are acceptable to the Airport Authority and having a value not less than the retainage that would otherwise be withheld from partial payment.
- c. The CMR shall enter into an escrow agreement satisfactory to the Airport Authority.
- d. The CMR shall obtain the written consent of the Surety to such agreement.

90-09 ACCEPTANCE AND FINAL PAYMENT

- a. When the Contract Work has been accepted in accordance with the requirements of the subsection titled FINAL ACCEPTANCE of Section 50, the Design Professional will prepare the final estimate of the items of Work actually performed. The CMR shall approve the Design Professional's final estimate or advise the Design Professional of his/her objections to the final estimate which are based on disputes in measurements or computations of the final quantities to be paid under the Contract as amended by Change Order or Supplemental Agreement. The CMR and the Design Professional shall resolve all disputes (if any) in the measurement and computation of final quantities to be paid within thirty (30) Calendar Days of the CMR's receipt of the Design Professional's final estimate. If, after such 30-day period, a dispute still exists, the CMR may approve the Design Professional's estimate under protest of the quantities in dispute, and such disputed quantities shall be considered by the Airport Authority as a claim in accordance with the subsection titled CLAIMS FOR ADJUSTMENT AND DISPUTES of Section 50.
- b. As a precondition of making final payment, the CMR must submit the following items to the Airport Authority along with the final Application for Payment:
 - (1) satisfactory proof that all claims arising out of the Work have been released or bonded to the Airport Authority's satisfaction;
 - (2) acknowledgment of prior payments and release of liens and claims from all Subcontractors and the CMR;
 - (3) a notarized final sworn statement and applicable affidavit(s) that all payrolls, bills for Materials and Equipment, and other indebtedness connected with the Work for which the Airport Authority or its property might in any way be responsible, have been paid or otherwise satisfied, and any other information or documentation requested by the Airport Authority establishing payment or satisfaction of all obligations arising out of the Contract, to the extent and in such form as may be designated by the Airport Authority; and
 - (4) consent of Surety, if required, to release retainage and final payment.
- c. After the CMR has approved, or approved under protest, the Design Professional's final estimate, final payment will be processed based on the entire Price, or the undisputed Price in case of approval under protest, determined to be due the CMR less all previous payments and all amounts to be deducted under the provisions of the Contract. All prior partial estimates and payments shall be subject to correction in the final estimate and payment.
- d. If the CMR has filed a claim for additional compensation under the provisions of the subsection titled CLAIMS FOR ADJUSTMENTS AND DISPUTES of Section 50 or under the provisions of this subsection, such claims will be considered by the Airport Authority in accordance with local laws or ordinances. Upon final

adjudication of such claims, any additional payment determined to be due the CMR will be paid pursuant to a supplemental final estimate.

- e. The acceptance of final payment shall constitute a release and waiver of all claims by the CMR except those previously made in writing and identified by the CMR in writing as unsettled at the time of the final payment.

90-10 RIGHT TO AUDIT CONTRACTOR'S RECORDS

- a. The CMR shall maintain all financial and accounting Records, including all Records related to Disadvantaged Business Enterprise (DBE) participation when DBE participation is included for the Work, and evidence pertaining to the Contract in accordance with generally accepted principles of accounting and other procedures specified by the Airport Authority.
- b. The Airport Authority has the right to examine and audit all books, Records, documents and other supporting data, as the Airport Authority deems necessary, of the CMR, or any Subcontractors or agents performing Work under this Contract, whether direct or indirect, so as to permit adequate evaluation of the Work performed by the CMR. The CMR must include a similar covenant allowing for the Airport Authority audit in any agreement it has with a Subcontractor or other agent related to this Contract. The Airport Authority may delay payment to the CMR pending the results of any such audit without penalty or interest.
- c. The CMR shall make available to the Airport Authority, or its authorized representatives, at any time Monday through Friday, inclusive, between the hours of 8:00 a.m. and 5:00 p.m., at the Airport Authority's election, at that location among its offices at which the Contract is principally performed or which is closest and most convenient for the Airport Authority's auditors, all Records, books, statements, reports or other pertinent information that the Airport Authority deems necessary concerning the CMR's and any Subcontractor's performance of the Work under this Contract, as may be required for audit purposes. The CMR shall make its staff available to answer all questions and provide all information reasonably necessary to complete both a financial and compliance audit of the Contract. If, in the course of such inspections, representatives of the Airport Authority should note any deficiencies in the performance of the Work of the CMR, or any other deficiencies, the alleged deficiencies will be reported to the CMR in writing. The CMR agrees to promptly remedy and correct any reported deficiencies within ten (10) Calendar Days of notification by the Airport Authority.
- d. If, as a result of any audit conducted by or for the Airport Authority, the State of Michigan or any federal agency relating to the CMR's performance under this Contract, a discrepancy should arise as to the amount of compensation due the CMR, the CMR shall pay to the Airport Authority, on demand, the amount of compensation in question. If the CMR fails or refuses to make payment, in addition to any other legal remedies available to the Airport Authority, the Airport Authority may retain said amount from any funds allocated to the CMR but not yet disbursed under the Contract or may offset such a deficiency against the compensation to be paid the CMR in any concurrent, successive or future contracts between the parties.
- e. A breach of this subsection 90-10 constitutes a material breach of the Contract sufficient to warrant termination, the imposition of liquidated damages (not a

penalty) of fifteen percent (15%) of the consideration for the Contract, and debarment from further Work for the Airport Authority for up to seven (7) years.

- f. The CMR and its Subcontractors shall maintain all documents referred to above, and all other records, correspondence, memoranda, instructions, drawings, sketches and other documents and data (including documents and data in electronic form) relating to the Contract or Subcontractors for a period of seven (7) years from the date each receives final payment under their respective contracts. If the Contract is funded, in whole or in part, by federal and/or state funds, the CMR and its Subcontractors shall maintain all such documents for a period of seven (7) after the Airport Authority completes its final audit, or such longer period as may be required by Applicable Laws. The CMR shall make this a condition of any Subcontract with its Subcontractors. The CMR shall maintain all documents at that location among its offices in which the Contract is principally performed or which is closest and most convenient for the Airport Authority's auditors.

END OF SECTION 90

Section 100 Contractor Quality Control Program

100-01 GENERAL

When the specification requires a Contractor Quality Control Program, the CMR shall establish, provide, and maintain an effective Quality Control Program that details the methods and procedures that will be taken to assure that all materials and completed construction required by this contract conform to contract plans, technical specifications and other requirements, whether manufactured by the CMR, or procured from subcontractors or vendors. Although guidelines are established and certain minimum requirements are specified herein and elsewhere in the contract technical specifications, the CMR shall assume full responsibility for accomplishing the stated purpose.

The intent of this section is to enable the CMR to establish a necessary level of control that will:

- a. Adequately provide for the production of acceptable quality materials.
- b. Provide sufficient information to assure both the CMR and the Design Professional that the specification requirements can be met.
- c. Allow the CMR as much latitude as possible to develop his or her own standard of control.

The CMR shall be prepared to discuss and present, at the preconstruction conference, his/her understanding of the quality control requirements. The CMR shall not begin any construction or production of materials to be incorporated into the completed work until the Quality Control Program has been reviewed by the Design Professional. No partial payment will be made for materials subject to specific quality control requirements until the Quality Control Program has been reviewed.

The quality control requirements contained in this section and elsewhere in the contract technical specifications are in addition to and separate from the acceptance testing requirements. Acceptance testing requirements are the responsibility of the Design Professional.

100-02 DESCRIPTION OF PROGRAM

- a. **General Description.** The CMR shall establish a Quality Control Program to perform inspection and testing of all items of work required by the technical specifications, including those performed by subcontractors. This Quality Control Program shall ensure conformance to applicable specifications and plans with respect to materials, workmanship, construction, finish, and functional performance. The Quality Control Program shall be effective for control of all construction work performed under this Contract and shall specifically include surveillance and tests required by the technical specifications, in addition to other requirements of this section and any other activities deemed necessary by the CMR to establish an effective level of quality control.
 - b. **Quality Control Program.** The CMR shall describe the Quality Control Program in a written document that shall be reviewed by the Design Professional prior to the start of any production, construction, or off-site fabrication. The written Quality
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Control Program shall be submitted to the Design Professional for review no later than ten Calendar Days following the date of the Contract.

The Quality Control Program shall be organized to address, as a minimum, the following items:

- a. Quality control organization.
- b. Project progress schedule.
- c. Submittals schedule.
- d. Inspection requirements.
- e. Quality control testing plan.
- f. Documentation of quality control activities.
- g. Requirements for corrective action when quality control and/or acceptance criteria are not met.

The CMR is encouraged to add any additional elements to the Quality Control Program that he/she deems necessary to adequately control all production and/or construction processes required by this contract.

100-03 QUALITY CONTROL ORGANIZATION

The CMR Quality Control Program shall be implemented by the establishment of a separate quality control organization. An organizational chart shall be developed to show all quality control personnel and how these personnel integrate with other management/production and construction functions and personnel.

The organizational chart shall identify all quality control staff by name and function, and shall indicate the total staff required to implement all elements of the Quality Control Program, including inspection and testing for each item of work. If necessary, different technicians can be used for specific inspection and testing functions for different items of work. If an outside organization or independent testing laboratory is used for implementation of all or part of the Quality Control Program, the personnel assigned shall be subject to the qualification requirements of paragraph 100-03a and 100-03b. The organizational chart shall indicate which personnel are CMR employees and which are provided by an outside organization.

The quality control organization shall consist of the following minimum personnel:

- a. **Program Administrator.** The Program Administrator shall be a full-time employee of the CMR, or a consultant engaged by the CMR. The Program Administrator shall have a minimum of 5 years of experience in airport and/or highway construction and shall have had prior quality control experience on a project of comparable size and scope as the contract.

The Program Administrator shall have full authority to institute any and all actions necessary for the successful implementation of the Quality Control Program to ensure compliance with the contract plans and technical specifications. The Program Administrator shall report directly to a responsible officer of the construction firm. The Program Administrator may supervise the Quality Control Program on more than one project provided that person can be at the job site within 2 hours after being notified of a problem.

- b. Quality Control Technicians.** A sufficient number of quality control technicians necessary to adequately implement the Quality Control Program shall be provided. These personnel shall be either engineers, engineering technicians, or experienced craftsman with qualifications in the appropriate field equivalent to NICET Level II or higher construction materials technician or highway construction technician and shall have a minimum of 2 years of experience in their area of expertise.

The quality control technicians shall report directly to the Program Administrator and shall perform the following functions:

- (1) Inspection of all materials, construction, plant, and equipment for conformance to the technical specifications, and as required by Section 100-06.
- (2) Performance of all quality control tests as required by the technical specifications and Section 100-07.

Certification at an equivalent level, by a state or nationally recognized organization will be acceptable in lieu of NICET certification.

- c. Staffing Levels.** The CMR shall provide sufficient qualified quality control personnel to monitor each work activity at all times. Where material is being produced in a plant for incorporation into the work, separate plant and field technicians shall be provided at each plant and field placement location. The scheduling and coordinating of all inspection and testing must match the type and pace of work activity. The Quality Control Program shall state where different technicians will be required for different work elements.

100-04 PROJECT PROGRESS SCHEDULE

The CMR shall submit a coordinated construction schedule for all work activities. The schedule shall be prepared as a network diagram in Critical Path Method (CPM), PERT, or other format, or as otherwise specified in the contract. As a minimum, it shall provide information on the sequence of work activities, milestone dates, and activity duration.

The CMR shall maintain the work schedule and provide an update and analysis of the progress schedule on a twice monthly basis, or as otherwise specified in the contract. Submission of the work schedule shall not relieve the CMR of overall responsibility for scheduling, sequencing, and coordinating all work to comply with the requirements of the contract.

100-05 SUBMITTALS SCHEDULE

The CMR shall submit a detailed listing of all submittals (for example, mix designs, material certifications) and shop drawings required by the technical specifications. The listing can be developed in a spreadsheet format and shall include:

- a. Specification item number.
 - b. Item description.
 - c. Description of submittal.
 - d. Specification paragraph requiring submittal.
 - e. Scheduled date of submittal.
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100-06 INSPECTION REQUIREMENTS

Quality control inspection functions shall be organized to provide inspections for all definable features of work, as detailed below. All inspections shall be documented by the CMR as specified by Section 100-07.

Inspections shall be performed daily to ensure continuing compliance with contract requirements until completion of the particular feature of work. These shall include the following minimum requirements:

- a.** During plant operation for material production, quality control test results and periodic inspections shall be used to ensure the quality of aggregates and other mix components, and to adjust and control mix proportioning to meet the approved mix design and other requirements of the technical specifications. All equipment used in proportioning and mixing shall be inspected to ensure its proper operating condition. The Quality Control Program shall detail how these and other quality control functions will be accomplished and used.
- b.** During field operations, quality control test results and periodic inspections shall be used to ensure the quality of all materials and workmanship. All equipment used in placing, finishing, and compacting shall be inspected to ensure its proper operating condition and to ensure that all such operations are in conformance to the technical specifications and are within the plan dimensions, lines, grades, and tolerances specified. The Program shall document how these and other quality control functions will be accomplished and used.

100-07 QUALITY CONTROL TESTING PLAN

As a part of the overall Quality Control Program, the CMR shall implement a quality control testing plan, as required by the technical specifications. The testing plan shall include the minimum tests and test frequencies required by each technical specification item, as well as any additional quality control tests that the CMR deems necessary to adequately control production and/or construction processes.

The testing plan can be developed in a spreadsheet fashion and shall, as a minimum, include the following:

- a.** Specification item number
- b.** Item description
- c.** Test type
- d.** Test standard
- e.** Test frequency
- f.** Responsibility
- g.** Control requirements

All quality control test results shall be documented by the CMR as required by Section 100-08.

100-08 DOCUMENTATION

The CMR shall maintain current quality control records of all inspections and tests performed. These records shall include factual evidence that the required inspections or tests have been performed, including type and number of inspections or tests involved; results of inspections or

tests; nature of defects, deviations, causes for rejection, etc.; proposed remedial action; and corrective actions taken.

These records must cover both conforming and defective or deficient features, and must include a statement that all supplies and materials incorporated in the work are in full compliance with the terms of the contract. Legible copies of these records shall be furnished to the Design Professional daily. The records shall cover all work placed subsequent to the previously furnished records and shall be verified and signed by the CMR's Program Administrator.

Specific CMR quality control records required for the contract shall include, but are not necessarily limited to, the following records:

- a. Daily Inspection Reports.** Each CMR quality control technician shall maintain a daily log of all inspections performed for both CMR and subcontractor operations on a form acceptable to the Design Professional. These technician's daily reports shall provide factual evidence that continuous quality control inspections have been performed and shall, as a minimum, include the following:

- (1) technical specification item number and description;
- (2) compliance with approved submittals;
- (3) proper storage of materials and equipment;
- (4) proper operation of all equipment;
- (5) adherence to plans and technical specifications;
- (6) review of quality control tests; and
- (7) safety inspection.

The daily inspection reports shall identify inspections conducted, results of inspections, location and nature of defects found, causes for rejection, and remedial or corrective actions taken or proposed.

The daily inspection reports shall be signed by the responsible quality control technician and the Program Administrator. The Design Professional shall be provided at least one copy of each daily inspection report on the work day following the day of record.

- b. Daily Test Reports.** The CMR shall be responsible for establishing a system that will record all quality control test results. Daily test reports shall document the following information:

- (1) Technical specification item number and description.
 - (2) Test designation.
 - (3) Location.
 - (4) Date of test.
 - (5) Control requirements.
 - (6) Test results.
 - (7) Causes for rejection.
 - (8) Recommended remedial actions.
 - (9) Retests.
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Test results from each day's work period shall be submitted to the Design Professional prior to the start of the next day's work period. When required by the technical specifications, the CMR shall maintain statistical quality control charts. The daily test reports shall be signed by the responsible quality control technician and the Program Administrator.

100-09 CORRECTIVE ACTION REQUIREMENTS

The Quality Control Program shall indicate the appropriate action to be taken when a process is deemed, or believed, to be out of control (out of tolerance) and detail what action will be taken to bring the process into control. The requirements for corrective action shall include both general requirements for operation of the Quality Control Program as a whole, and for individual items of work contained in the technical specifications.

The Quality Control Program shall detail how the results of quality control inspections and tests will be used for determining the need for corrective action and shall contain clear sets of rules to gauge when a process is out of control and the type of correction to be taken to regain process control.

When applicable or required by the technical specifications, the CMR shall establish and use statistical quality control charts for individual quality control tests. The requirements for corrective action shall be linked to the control charts.

100-10 SURVEILLANCE BY THE ENGINEER

All items of material and equipment shall be subject to surveillance by the Design Professional at the point of production, manufacture or shipment to determine if the CMR, producer, manufacturer or shipper maintains an adequate quality control system in conformance with the requirements detailed herein and the applicable technical specifications and plans. In addition, all items of materials, equipment and work in place shall be subject to surveillance by the Design Professional at the site for the same purpose.

Surveillance by the Design Professional does not relieve the CMR of performing quality control inspections of either on-site or off-site CMR's or subcontractor's work.

100-11 NONCOMPLIANCE

- a.** The Design Professional will notify the CMR of any noncompliance with any of the foregoing requirements. The CMR shall, after receipt of such notice, immediately take corrective action. Any notice, when delivered by the Design Professional or his/her authorized representative to the CMR or his/her authorized representative at the site of the work, shall be considered sufficient notice.
 - b.** In cases where quality control activities do not comply with either the CMR Quality Control Program or the contract provisions, or where the CMR fails to properly operate and maintain an effective Quality Control Program, as determined by the Design Professional, the Design Professional may:
 - (1)** Order the CMR to replace ineffective or unqualified quality control personnel or subcontractors.
 - (2)** Order the CMR to stop operations until appropriate corrective actions are taken.
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