



City Hall, 215 Sycamore St.  
Muscatine, IA 52761-3840  
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**COMMUNITY DEVELOPMENT**

**Planning,  
Zoning,  
Building Safety,  
Construction Inspection Services,  
Public Health,  
Housing Inspections,  
Code Enforcement**

**MEMORANDUM**

**To:** Mayor and City Council Members

**Cc:** Gregg Mandsager, City Administrator  
Steve Boka, Director of Community Development

**From:** Adam Thompson, Planning and Community Development Coordinator

**Date:** May 28, 2014

**Re:** Agreement for Engineering and/or Land Surveying Services

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**INTRODUCTION:** The City of Muscatine continues to utilize Anderson-Bogert Engineers & Surveyors, Inc, for design and consultant services at the Muscatine Municipal Airport.

**BACKGROUND:** For many years, the City has entered into a professional services agreement with Anderson-Bogert for many engineering and survey activities that are required as a condition of state and federal funding. City staff also contributes to many of these activities and works closely with Anderson-Bogert to keep these fees to a minimum.

**RECOMMENDATION/RATIONALE:** An explanation of the proposed fees and the scope of services are included with the Agreement. It is recommended that the City Council approve the attached Agreement for Engineering and/or Land Surveying Services with Anderson-Bogert Engineers & Surveyors, Inc. for the period beginning May 1, 2014 for activities included in the 5 year CIP for the Muscatine Municipal Airport

1. Agreement
2. 5-year Airport CIP

## FIVE-YEAR AIRPORT CAPITAL IMPROVEMENT PROGRAM (CIP)

Airport Name: Muscatine Municipal Airport

Telephone: 319.377.4629

Prepared By: Jayne DeCoste, Anderson Bogert

Date Approved: \_\_\_\_\_

Date Prepared: 1/23/14

Project Description	Funding Source	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Connector Road between Hangar Access Road and T-Hangars	Federal	\$ 0	\$	\$	\$	\$
	State	\$ 99,450	\$	\$	\$	\$
	Local	\$ 17,550	\$	\$	\$	\$
	Total	\$ 117,000	\$	\$	\$	\$
Reconstruct Runway 6/24	Federal	\$ 3,796,940	\$	\$	\$	\$
	State	\$ 0	\$	\$	\$	\$
	Local	\$ 421,882	\$	\$	\$	\$
	Total	\$ 4,218,822	\$	\$	\$	\$
Pavement Maintenance - Apron, Runway 12/30, and Taxiway B	Federal	\$	\$ 0	\$	\$	\$
	State	\$	\$ 85,000	\$	\$	\$
	Local	\$	\$ 15,000	\$	\$	\$
	Total	\$	\$ 100,000	\$	\$	\$
Update Master Plan (ALP)	Federal	\$	\$ 166,500	\$	\$	\$
	State	\$	\$ 0	\$	\$	\$
	Local	\$	\$ 18,500	\$	\$	\$
	Total	\$	\$ 185,000	\$	\$	\$
Taxiway A Design & Reconstruction	Federal	\$	\$	\$ 1,910,479	\$	\$
	State	\$	\$	\$ 0	\$	\$
	Local	\$	\$	\$ 212,275	\$	\$
	Total	\$	\$	\$ 2,122,754	\$	\$
Upgrade Fuel Facility (with submersible pump) - no self service included	Federal	\$	\$	\$	\$ 0	\$
	State	\$	\$	\$	\$ 157,250	\$
	Local	\$	\$	\$	\$ 27,750	\$
	Total	\$	\$	\$	\$ 185,000	\$

## FIVE-YEAR AIRPORT CAPITAL IMPROVEMENT PROGRAM (CIP)

Airport Name: Muscatine Municipal Airport

Telephone: 319.377.4629

Prepared By: Jayne DeCoste, Anderson Bogert

Date Approved: \_\_\_\_\_

Date Prepared: 1/23/14

Project Description	Funding Source	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Airfield Pavement Maintenance	Federal	\$	\$	\$	\$	\$ 0
	State	\$	\$	\$	\$	\$ 85,000
	Local	\$	\$	\$	\$	\$ 15,000
	Total	\$	\$	\$	\$	\$ 100,000
2018 & 2019 - Accrue Federal Funding for T-hangars (see LRNA FY 2021)	Federal	\$	\$	\$	\$	\$
	State	\$	\$	\$	\$	\$
	Local	\$	\$	\$	\$	\$
	Total	\$	\$	\$	\$	\$
	Federal	\$	\$	\$	\$	\$
	State	\$	\$	\$	\$	\$
	Local	\$	\$	\$	\$	\$
	Total	\$	\$	\$	\$	\$
	Federal	\$	\$	\$	\$	\$
	State	\$	\$	\$	\$	\$
	Local	\$	\$	\$	\$	\$
	Total	\$	\$	\$	\$	\$
	Federal	\$	\$	\$	\$	\$
	State	\$	\$	\$	\$	\$
	Local	\$	\$	\$	\$	\$
	Total	\$	\$	\$	\$	\$



## AIRPORT LONG RANGE NEEDS ASSESSMENT

FFY 2020 – FFY 2024

Airport Name: Muscatine Municipal Airport

Description of Project (include estimated Fiscal Year)	Funding Source	Total Estimated Cost
FY 2021 T-Hangar Apron Expansion & T-Hangar Construction	<b>Federal:</b> <b>State:</b> <b>Local:</b> <b>Total:</b>	\$ 600,000 \$ 0 \$ 93,000 \$ 693,000
FY 2022 Airfield Pavement Maintenance	<b>Federal:</b> <b>State:</b> <b>Local:</b> <b>Total:</b>	\$ 0 \$ 85,000 \$ 15,000 \$ 100,000
FY 2023 T-Hangar Apron Pavement Replacement	<b>Federal:</b> <b>State:</b> <b>Local:</b> <b>Total:</b>	\$ 0 \$ 212,500 \$ 37,500 \$ 250,000
FY 2024 T-Hangar Reconstruction	<b>Federal:</b> <b>State:</b> <b>Local:</b> <b>Total:</b>	\$ 405,000 \$ 0 \$ 45,000 \$ 450,000
FY 2025 Airfield Pavement Maintenance	<b>Federal:</b> <b>State:</b> <b>Local:</b> <b>Total:</b>	\$ 0 \$ 85,000 \$ 15,000 \$ 100,000
FY 2026 Snow Removal Equipment Building/Municipal Hangar	<b>Federal:</b> <b>State:</b> <b>Local:</b> <b>Total:</b>	\$ 150,000 \$ 270,000 \$ 230,000 \$ 650,000

**MASTER AGREEMENT FOR ENGINEERING SERVICES  
MUSCATINE MUNICIPAL AIRPORT  
Muscatine, Iowa  
FFY 2014 through FFY 2018**

ARTICLE I: This AGREEMENT, entered into as of this 1st day of May, 2014, by and between:

CITY OF MUSCATINE  
215 Sycamore Street  
Muscatine, Iowa 52761

hereinafter referring to  
as the SPONSOR

AND:

ANDERSON-BOGERT,  
Engineers & Surveyors, Inc.  
4001 River Ridge Dr. NE  
Cedar Rapids, IA 52402

hereinafter referred to  
as the CONSULTANT

FOR THE PURPOSE of providing the following Engineering Services:

This Agreement shall apply to all Services for as many Projects as SPONSOR and CONSULTANT agree will be performed under the terms and conditions of this Agreement for a period of five years. Exhibit A lists potential projects. All services CONSULTANT performs for SPONSOR hereunder shall be designated by a Task Order. No Task Order shall be binding or enforceable until it has been properly approved and executed by both SPONSOR and CONSULTANT. Each properly executed Task Order shall become a separate supplemental agreement to this Agreement. After receiving written notice to proceed from SPONSOR, CONSULTANT shall perform the Services described in each Task Order in accordance with the Terms and Conditions of this Agreement.

hereinafter referred to  
as the PROJECTS

DO HEREBY, mutually agree as follows:

## ARTICLE II: CONSULTANT'S SERVICES AND RESPONSIBILITIES

1. Employment Of The Consultant. The SPONSOR hereby agrees to engage the CONSULTANT and his specified subcontractors who in turn agree to perform the technical and professional services necessary to produce the PROJECTS. Furthermore, it is expressly understood that the Federal Aviation Administration (FAA) has the right to approve the terms and conditions of this AGREEMENT as well as the proposed scope and costs of the technical and professional services to be conducted as a part of the PROJECTS.
2. Scope Of Services. The CONSULTANT shall do, perform and carry out in a satisfactory and proper manner, as determined by the SPONSOR and the FAA, the services generally outlined below and specifically indicated in each Task Order, attached and incorporated by reference hereto.
3. Notice To Proceed. The official written notice to proceed will be issued by the SPONSOR for all or part of the proposed scope of work in each Task Order, upon receiving similar notice from the FAA.
4. Time Of Performance. The services of the CONSULTANT shall be undertaken and completed as indicated in the FAA Initiation of Work Project Schedule for each proposed project/task order. The CONSULTANT agrees to proceed with the work after receipt of written Notice to Proceed (NTP) by the SPONSOR and to employ such personnel as required to complete the Scope of Services in accordance with each Project Schedule.
5. Responsibility Of The CONSULTANT. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of services provided by the CONSULTANT under this AGREEMENT.

## ARTICLE III: SPONSOR'S RESPONSIBILITIES

The SPONSOR, as a part of this AGREEMENT, shall provide the CONSULTANT with the following:

1. Arrange for access to and make all provisions for the CONSULTANT to enter upon public and private property as required for the CONSULTANT to perform his services.
2. Assist in approvals and permits from all governmental entities having jurisdiction over the project and such approvals and consents from others

as may be necessary for completion of the PROJECTS.

3. Designate a person to act as SPONSOR representative with respect to the services to be rendered under this AGREEMENT. Such person shall have authority to transmit instructions, receive information, interpret and define SPONSOR policies and decisions.
4. Give prompt notice to the CONSULTANT whenever SPONSOR observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT'S services, or any defect in the work of the contractor(s).
5. Pay publishing cost for advertisements of notices, public hearings, request for bids, and other similar items. The SPONSOR shall pay for all permits and licenses that may be required by local, state, or federal authorities; and shall secure the necessary land, easements, and rights-of-way required for the PROJECTS.
6. Provide evidence of proper engineering services selection as per the FAA Advisory Circular 150/5100-14D. This agreement is a result of the engineering services selection as published December 30, 2013.
7. One (1) copy of existing plans, reports, or other data the SPONSOR may have on file with regard to the PROJECTS.

#### ARTICLE IV: COMPENSATION AND METHOD OF PAYMENT

1. Compensation. It is expressly understood and agreed that the total compensation to be paid to the CONSULTANT shall be as described in each Task Order. Such sum shall constitute full and complete compensation as identified in the Task Order Cost Summary, attached and incorporated by reference hereto. In consideration of CONSULTANT'S agreement to provide the Services, SPONSOR shall pay to CONSULTANT the fees specified in each Task Order and reimburse CONSULTANT for its costs and expenses incurred in connection with the Services.
2. Method Of Payment. The SPONSOR shall pay to the CONSULTANT not more than the fixed price amount set out in number one listed above. Payments shall be at monthly intervals specifying that the CONSULTANT has performed the work and is entitled to the amount requisitioned under the terms of this AGREEMENT.

3. CONSULTANT Responsibilities For Compensation. The CONSULTANT shall prepare monthly invoices and progress reports which clearly indicate the progress to date and the amount of compensation due by virtue of that progress. All requisitions for payment shall be for work completed, unless otherwise agreed to by the SPONSOR.
4. SPONSOR Responsibilities For Compensation. The SPONSOR agrees to pay the CONSULTANT'S invoices net upon receipt. At no time will payment of requisitions exceed thirty (30) days from the date of the invoice without written notification to the CONSULTANT. It is expressly understood that the payment process outlined above builds in provisions for the CONSULTANT to carry PROJECT costs for no more than sixty (60) days to minimize interest overheads and provide more planning man-hours for each PROJECT dollar. It is also expressly understood that the SPONSOR has the right to withhold payment of any invoice, if he feels that the CONSULTANT has not performed the requisitioned work efforts in a satisfactory manner. If the SPONSOR does decide to withhold payments to the CONSULTANT for any reason, he must provide written notification and an explanation to the CONSULTANT within ten (10) days of the date of the invoice. In addition to the termination provisions in Exhibit B – Federal Provisions, if SPONSOR fails to pay CONSULTANT within ninety (90) days of an undisputed invoice, CONSULTANT, without liability to SPONSOR, may terminate this AGREEMENT and/or suspend Services until payment of all past due amounts has been received by CONSULTANT.

#### ARTICLE V: MISCELLANEOUS PROVISIONS

1. Changes to the Scope of Services. The SPONSOR may, at any time, and by written order, make changes in the services to be performed under this AGREEMENT. If such changes cause an increase or decrease in the CONSULTANT'S cost or time required to complete the contract, the contract time and/or compensation will be revised to reflect these changes.
2. Examination Of Records. The CONSULTANT agrees that duly authorized representatives of the SPONSOR, the Federal Aviation Administration, and the Comptroller General of the United States shall, until the expiration of three (3) years after final payment under this contract have access to and the right to examine any directly pertinent books, documents, papers, and records of the CONSULTANT involving transactions related to this contract.
3. Ownership Of Documents And Other Data. Original documents, such as tracings, plans, specifications, maps, basic survey notes and sketches, charts, computations, and other data prepared or obtained under the terms of this AGREEMENT or attached Authorization of Services are



instruments of service and generally should remain in the property of the CONSULTANT, unless otherwise agreed to by both parties. Reproducible copies of drawings and copies of other pertinent data shall be made available to the SPONSOR upon request.

4. Suspension Of Work. The SPONSOR may order the CONSULTANT, in writing, to suspend all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the SPONSOR.

If the performance of all or any part of the work is, for any unreasonable period of time, suspended or delayed by an act of the SPONSOR in the administration of this contract, or by its failure to act within the time specified in this contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in cost of performance of this contract necessarily caused by such unreasonable suspension or delay, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension or delay to the extent (1) that performance would have been suspended or delayed by any other cause, including the fault or negligence of the CONSULTANT or (2) for which an equitable adjustment is provided for or excluded under any other provision of this contract.

5. Composition Of CONSULTANT. If the CONSULTANT is comprised of more than one legal entity, each such entity shall be jointly and severally liable.
6. Interests And Benefits. The CONSULTANT covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract. The CONSULTANT further covenants that in the performance of this contract, no person having any such interest shall be employed.
7. Interest Of Members Of SPONSORS And Others. No officer, member, or employee of the SPONSOR and no member of its governing body, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the services to be performed under this contract, shall participate in any decision relating to the contract which affects his personal interest or have any personal or pecuniary interest, direct or indirect, in the contract or the proceeds thereof.
8. Sanctions For Noncompliance. In the event of the CONSULTANT'S noncompliance with the nondiscrimination provisions of this contract, the SPONSOR shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the CONSULTANT under the contract until the CONSULTANT complies and/or
  - b. cancellation, termination, or suspension of the contract, in whole or in part.
9. Information And Reports. The CONSULTANT shall provide all information and reports required by the Regulations and directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the SPONSOR or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the SPONSOR or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.
10. Incorporation Of Provision. The CONSULTANT shall include the provisions of the above paragraphs in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any subcontract or procurement as the SPONSOR or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a CONSULTANT may request the SPONSOR to enter into such litigation to protect the interests of the SPONSOR and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.
11. Assignability. The CONSULTANT shall not assign any interest in this contract, and shall not transfer any interest in the same without the prior written consent of the SPONSOR thereto; provided, however, that claims for money due or to become due to the CONSULTANT from the SPONSOR under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the SPONSOR. In addition, SPONSOR shall not assign any right, or delegate any obligation, arising under this AGREEMENT without prior written consent of CONSULTANT.
12. Standard of Care; Disclaimer of Warranties; Limitation of Services.
  - a. The CONSULTANT agrees to perform the Services in accordance with the standard of care used by persons of CONSULTANT's profession practicing under similar circumstances at the same time and in the same locality. All estimates, recommendations, opinions, and decisions of

CONSULTANT will be made upon the basis of the information available to CONSULTANT and CONSULTANT's experience, technical qualifications, and professional judgment.

b. The CONSULTANT warrants that it will exercise due care in the performance of the Services subject to the limitations described in the AGREEMENT. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES WITH RESPECT TO THE SERVICES, WHETHER EXPRESSED OR IMPLIED.

c. The SPONSOR acknowledges and agrees that (i) subterranean conditions may vary at locations other than at a particular location where borings, explorations, surveys and samplings are made, and that CONSULTANT'S data interpretations and recommendations are based solely upon information available to CONSULTANT at the time of assessment; (ii) investigations may disclose the presence of existing geological conditions or other substances, the presence of which may require disclosure to appropriate governmental authorities by the SPONSOR; (iii) although necessary to perform the Services, investigation methods involve an inherent risk of contamination of previously uncontaminated air, soil and water; (iv) CONSULTANT is not responsible for data, interpretation and/or recommendations by others; (v) all data obtained during investigative phases are subject to confirmation of conditions encountered during subsequent phases of the project; and (vi) the extent and scope of Services under this AGREEMENT may be limited by SPONSOR's schedule and financial considerations and that additional services may provide more accurate information in respect to conditions at or near the site.

d. SPONSOR acknowledges and agrees that CONSULTANT is not a generator, storer, transporter, arranger for transport, or disposer of hazardous or toxic substances, pollutants or contaminants found or identified at the project site. CONSULTANT's Services do not include any services regarding the presence or discovery at the site of asbestos, PCBs, petroleum, hazardous waste, radioactive materials or any other hazardous material or toxic substance. SPONSOR shall undertake or arrange for the handling, removal, treatment, storage, transportation, and disposal of hazardous substances or constituents found or identified at the site. CONSULTANT is only responsible for providing the Services described in the Agreement.

13. Information; Third parties; Access to Site.

a. SPONSOR represents and warrants that it has or will timely (i) furnish or cause to be furnished to CONSULTANT all documents and information known to SPONSOR that relates to the identity, location, quantity, nature or

characteristics of any hazardous waste at, on, or under the site; and (ii) furnish and pay for such other reports, aerial photographs, data, studies, drawings, specifications, documents, and other information regarding surface and subsurface site conditions which will be required by CONSULTANT for performance of its services. CONSULTANT shall be entitled to rely upon documents and information provided by SPONSOR in performing the Services. CONSULTANT assumes no responsibility or liability for the accuracy or completeness of said documents and information. SPONSOR provided documents will remain the property of SPONSOR.

b. SPONSOR acknowledges and agrees that CONSULTANT may engage the services of independent contractors to perform the work necessary to complete the services. SPONSOR agrees that such independent contractors are not agents or employees of CONSULTANT. CONSULTANT will not direct, supervise, or control the work of contractors or their subcontractors. CONSULTANT's Services do not include a review or evaluation of a contractor's (subcontractor's) safety measures. CONSULTANT shall be responsible only for its employees on any site. CONSULTANT shall not be responsible for the operations of others or safety at the site.

c. SPONSOR shall provide right of entry for CONSULTANT personnel, CONSULTANT subconsultants, and all equipment and vehicles necessary to perform services. CONSULTANT will take reasonable measures to minimize damage to property; however, SPONSOR understands that some damage may occur, and the cost of repair of such damage shall solely be the responsibility and obligation of SPONSOR. CONSULTANT, upon SPONSOR's written authorization, and at SPONSOR's cost, will engage feasible locating methods and employ persons to confirm locations of below grade structures, foundations, utilities, and other subterranean obstacles. CONSULTANT will take reasonable effort to avoid damage to these items. SPONSOR agrees to hold CONSULTANT harmless for damages to or damages caused by any subsurface or subterranean utilities or structures which are not correctly located by the owner of the utility or which CONSULTANT could not locate using a reasonable standard of care.

14. Limitation of Liability. To the fullest extent permitted by law, and notwithstanding any other provision of this AGREEMENT, CONSULTANT and CONSULTANT's directors, officers, principals, managers, employees, agents and CONSULTANT's consultants and subconsultants, and any of them, total liability to SPONSOR and anyone claiming, by, through, or under SPONSOR for any claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to the Services or the AGREEMENT from any cause or causes, including but not limited to the negligence,

professional errors or omissions, strict liability or breach of contract, or warranty express or implied of CONSULTANT or CONSULTANT's directors, officers, principals, managers, employees, agents and CONSULTANT's consultants and subconsultants, or any of them, shall not exceed the total compensation received by CONSULTANT under this AGREEMENT.

15. Insurance. CONSULTANT agrees to purchase workers' compensation insurance and comprehensive general liability insurance. CONSULTANT agrees to purchase additional insurance, if requested by SPONSOR (presuming such insurance is reasonably available from carriers acceptable to CONSULTANT), provided the costs for additional insurance are reimbursed by SPONSOR.
16. Indemnification.
  - a. SPONSOR hereby agrees to indemnify and hold harmless, CONSULTANT and its officers, employees, agents and representatives, from and against liability for all claims, losses, damages and expenses, including reasonable attorneys' fees, brought by any third party against CONSULTANT which arise directly or indirectly out of this AGREEMENT or the performance of CONSULTANT'S Services hereunder, except arising solely from the gross negligence or willful misconduct of CONSULTANT.
  - b. CONSULTANT and SPONSOR each agree to indemnify and hold the other harmless from and against liability for all claims, losses, damages and expenses, including reasonable attorney's fees to the extent such claims, losses damages, or expenses are caused by the indemnifying party's negligent or wrongful acts, or omissions to act.
17. Confidentiality. CONSULTANT agrees to maintain as confidential and not disclose to others without SPONSOR's prior consent all information obtained from SPONSOR that was not otherwise previously known to CONSULTANT or in the public domain and is expressly designated by SPONSOR in writing to be "CONFIDENTIAL." Notwithstanding the foregoing, this paragraph shall not apply to information that (1) is published or comes into the public domain through no fault of CONSULTANT, (2) is furnished by or obtained from a third party who is under no obligation to keep the information confidential, or (3) is required to be disclosed by law or order of a court, administrative agency, or other authority with proper jurisdiction.
18. Governing Law. This AGREEMENT is to be governed by and construed in accordance with the laws of the State of Iowa.

19. Severability. If any provision of this AGREEMENT is determined to be invalid, the offending provision shall be deemed severed from this AGREEMENT and the determination shall not affect the validity of any other clause or provision of this AGREEMENT.
20. Independent Contractor. CONSULTANT at all times during the term of this AGREEMENT shall be considered an independent contractor. CONSULTANT shall not, for any purpose, be deemed an agent, employee, partner or legal representative of SPONSOR.
21. Binding Effect. This AGREEMENT shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, representatives, agents and permanent assigns.
22. Force Majeure. CONSULTANT will not be liable to SPONSOR for CONSULTANT'S failure to fulfill its obligations under this AGREEMENT due to causes beyond CONSULTANT'S reasonable control and without its fault or negligence including, but not limited to, governmental laws and regulations, acts of God or the public, war or other violence, civil commotion, blockades, embargoes, calamities, floods, fires, earthquakes, explosions, accidents, storms, strikes, lockouts, work stoppages, labor disputes, or unavailability of labor, raw materials, power or supplies. SPONSOR shall pay any additional costs incurred by CONSULTANT in connection with the performance of services under this AGREEMENT that are related to any labor disputes between the SPONSOR and any unions representing the employees of the SPONSOR.
23. Entire Agreement; Modifications. Except for forthcoming associated Task Orders, this AGREEMENT contains all the terms and conditions between the parties and supersedes all prior and contemporaneous negotiations, representations, understandings and other agreements, oral or otherwise, that may have been entered into by the parties. All other statements, conditions, covenants, representations, and warranties are merged herein. Any modifications of this AGREEMENT shall be in writing and duly executed by the parties.
24. No Implied Waiver. Any delay or failure of either party at any time to require performance by the other party of any provision of this AGREEMENT shall not in any way affect the right of such party to require performance. No waiver by either party of any breach of any provision of this AGREEMENT shall be enforceable against such party, unless such waiver is in writing, and no waiver shall be construed to be a waiver of any subsequent breach or of any other right or remedy under this AGREEMENT.

- 25. Dispute Resolution. SPONSOR and CONSULTANT agree that as a prerequisite to the filing of a lawsuit or a demand for arbitration, they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this AGREEMENT to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, effective as of the date of this AGREEMENT.
  
- 26. Incorporation of Exhibits/Task Orders. All Exhibits and Task Orders attached hereto are incorporated herein by reference and made a part hereof for all purposes as if fully set forth herein.

IN WITNESS WHEREOF, the SPONSOR and the CONSULTANT have executed this AGREEMENT as of the date first written.

FOR THE CONSULTANT



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William W. Bogert, P.E., President

FOR THE SPONSOR  
CITY OF MUSCATINE



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DeWayne Hopkins, Mayor

Attached and Incorporated by Reference:

- Exhibit A – Projects
- Exhibit B – Federal Provisions

**EXHIBIT A PROJECTS**  
MASTER AGREEMENT FOR ENGINEERING SERVICES  
MUSCATINE MUNICIPAL AIRPORT  
FFY 2014 through FFY 2018

The projects which are anticipated to occur between FY 2014 and FY 2018 and were listed in the Request for Qualifications for Airport Engineering Services dated December 30, 2013 and are expected to be covered by this agreement include:

- Rehabilitate Runway 6/24 (Design Only)
- Rehabilitate Runway 6/24 (Construction Services)
- Rehabilitate Taxiway A
- Connector Road between Hangar Access Road & T-Hangars
- Airfield Pavement Maintenance
- Update Master Plan (ALP) and Zoning Ordinance
- Upgrade Fuel Facility



**EXHIBIT B FEDERAL PROVISIONS**  
MASTER AGREEMENT FOR ENGINEERING SERVICES  
MUSCATINE MUNICIPAL AIRPORT  
FFY 2014 through FFY 2018

By entering into this Master Agreement for Engineering Services, the CONSULTANT agrees to abide by the Federal Provisions included herein.

All references made to "Contract" shall pertain to said Master Agreement for Engineering Services.

All references made herein to "Contractor" shall pertain to the CONSULTANT.

All references made herein to "Subcontractor" shall pertain to any and all subconsultants under contract with the CONSULTANT.

All references made herein to "Sponsor" shall pertain to City of Muscatine.

**1 – ACCESS TO RECORDS AND REPORTS**

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration (FAA), and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcriptions. The Contractor agrees to maintain all books, records, and reports required under this Contract for a period of not less than three years after final payment is made and all pending matters are closed.

**2 – BUY AMERICAN PREFERENCE**

This provision is omitted as none of the identified deliverables constitute a manufactured product.

**3 – CIVIL RIGHTS: GENERAL PROVISIONS**

The Contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the Contractor through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

#### 4 – CIVIL RIGHTS: TITLE VI ASSURANCES

##### Title VI Solicitation Notice:

The Sponsor, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies the Contractor that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

##### Title VI Compliance with Nondiscrimination Requirements

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

1. **Compliance with Regulations:** The Contractor will comply with the Title VI List of Pertinent Nondiscrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Contract.
2. **Non-discrimination:** The Contractor, with regard to the work performed by it during this Contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this Contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the FAA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor/subcontractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to

the Sponsor or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the nondiscrimination provisions of this Contract, the Sponsor will impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:
  - a) Withholding payments to the Contractor under the Contract until the Contractor complies; and/or
  - b) Cancelling, terminating, or suspending the Contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement, as the Sponsor or the FAA may direct, as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

#### Title VI List of Pertinent Nondiscrimination Statutes and Authorities

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

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the Contractor must take reasonable steps to ensure that LEP persons have meaningful access to the Contractor's programs (70 FR 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits the Contractor from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

## **5 – DISADVANTAGED BUSINESS ENTERPRISES**

Contract Assurance (§26.13) – The Contractor and its subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of their contracts. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as the Sponsor deems appropriate.

Prompt Payment (§26.29) – The Contractor agrees to pay each subcontractor under this Contract for satisfactory performance of its contract no later than 30 calendar days from the receipt of each payment the Contractor receives from the Sponsor. The Contractor agrees further to return retainage payments (if any) to each subcontractor within 30 calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Sponsor. This clause applies to both DBE and non-DBE subcontractors.

## **6 – FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

This provision is incorporated by reference to 29 U.S.C. § 201, et seq.

## **7 – LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

The Contractor certifies that by executing the Contract, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by Title 31, U.S.C., Section 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **8 – OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

This provision is incorporated by reference to 29 CFR Part 1910.

## **9 – RIGHTS TO INVENTIONS**

All rights to inventions and materials generated under this Contract are subject to requirements and regulations issued by the FAA and the Sponsor of the Federal grant under which this Contract is executed.

## **10 – TRADE RESTRICTION CLAUSE**

The Contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c) has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the Contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the FAA may direct through the Sponsor cancellation of the contract at no cost to the Government.

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

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

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the FAA may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, U.S.C., Section 1001.

## **11 – TERMINATION OF CONTRACT**

1. The Sponsor may, by written notice, terminate this Contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice, services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this Contract, whether completed or in progress, shall be delivered to the Sponsor.
2. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.
3. If the termination is due to failure to fulfill the Contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the Contractor is to be liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
4. If, after notice of termination for failure to fulfill contract obligations, it is determined that the Contractor had not so failed, the termination will be deemed to have been effected for the convenience of the Sponsor. In

such event, adjustment in the contract price will be made as provided in paragraph 2 of this clause.

5. The rights and remedies of the Sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this Contract.

## **12 – CERTIFICATE REGARDING DEBARMENT AND SUSPENSION**

By submitting a Contract for execution by the Sponsor, the Contractor certifies that at the time the Contractor submits said Contract that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

### *Certification Regarding Debarment and Suspension (Contractor Regarding Lower Tier Participants)*

The Contractor, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The Contractor will accomplish this by:

1. Checking the System for Award Management at website:  
<http://www.sam.gov>.
2. Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the FAA later determines that a lower tier participant failed to tell a higher tier that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedy, including suspension and debarment.

## **13 – BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this Contract on the part of the Contractor or its subcontractors may result in the suspension or termination of this Contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.



## **14 – CLEAN AIR AND WATER POLLUTION CONTROL**

Contractors and subcontractors agree:

1. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;
3. That, as a condition for the award of this Contract, the Contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
4. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements.

## **15 – CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

### **1. Overtime Requirements.**

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

### **2. Violation; Liability for Unpaid Wages; Liquidated Damages.**

In the event of any violation of the clause set forth in paragraph (1) above, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each

calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

3. Withholding for Unpaid Wages and Liquidated Damages.

The FAA or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4. Subcontractors.

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.