



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
From: Steven Boka, Director of Community Development
Date: March 31, 2011
Re: Agreement for Engineering Services
Update Airport Zoning Ordinance

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

BACKGROUND: The Airport Advisory Commission and the City Council have approved a 5-year CIP for the airport that includes an update of the existing Airport Zoning Ordinance that was adopted over 35 years ago. The project will also include the enactment of an ordinance for Muscatine County. Further, it may be necessary to enact regulations for the City of Fruitland and Muscatine County. The ordinances are intended to protect the airport from encroachments into protected airspace at various heights and distances from the runways. Additional information regarding the scope of engineering services expected under this Agreement may be referred to Exhibit A attached hereto.

RECOMMENDATION/RATIONALE: The cost for the project is provided through an agreement with the State of Iowa Division of Aviation that was approved by the City Council in November of 2012. The Agreement provides 85% state funding, not to exceed \$25,000.00 and a 15% local share. It is recommended that the City Council approve the Agreement for Engineering Services with Anderson Bogert Engineers and Surveyors as attached hereto.

BACKUP INFORMATION:

1. Agreement for Professional Services

"I remember Muscatine for its sunsets. I have never seen any on either side of the ocean that equaled them" — Mark Twain

MUSCATINE, IOWA
CITY CLERK'S OFFICE
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INDEX NO.
PUBLIC DOCUMENT



BOGERT

4001 River Ridge Drive NE
Cedar Rapids, IA 52402
Office: (319) 377-4629
Fax: (319) 377-8498

ANDERSON BOGERT
PROJECT NO. 213020

**AGREEMENT FOR
ENGINEERING AND/OR LAND SURVEYING SERVICES**

This AGREEMENT, made and entered into as of this 18th day of April, 2013, by and between the City of Muscatine, the CLIENT, mailing address of 215 Sycamore Street, Muscatine, Iowa 52761, and ANDERSON-BOGERT Engineers & Surveyors, Inc., the CONSULTANT, for professional services concerning the following PROJECT: Update Zoning Ordinances

The CLIENT agrees to employ the CONSULTANT to perform services hereinafter enumerated and the CONSULTANT hereby accepts such employment and agrees to perform said scope of services in connection with: per Exhibit "A", Scope of Services. (hereinafter called the PROJECT).

The CLIENT agrees to furnish to the CONSULTANT full information as to the CLIENT'S requirements including any special or extraordinary considerations for the PROJECT or special services needed, and also to make available pertinent existing data. Any extra services authorized by client will be charged as extra work. This extra work will be based on our standard hourly rates.

The General Terms and Conditions set forth and attached hereto are herein incorporated into and made a part of this AGREEMENT.

Other terms and conditions of this AGREEMENT are as follows: per Exhibit "B-1", Cost Summary

In consideration for services performed by the CONSULTANT covering the work described above, the CLIENT agrees to pay the CONSULTANT on the following basis: (AS CHECKED)

- Lump sum in the amount of \$ _____
- Per the attached fee schedule
- Others as stated here Fees shall be charged on a time and expense basis per the attached standard rates (Exhibit B-2), not to exceed \$22,406 unless approval is granted by the City of Muscatine.

Payment shall be made as per the General Terms and Conditions on a monthly basis unless otherwise indicated in this AGREEMENT.

THIS AGREEMENT represents the entire and integrated AGREEMENT between the CLIENT and the CONSULTANT for the PROJECT described and supersedes all prior negotiations, representations or agreements, either written or oral. THIS AGREEMENT may be amended only by written instrument signed by both the CLIENT and the CONSULTANT.

THIS AGREEMENT executed the day and year written above.

FOR CLIENT

DeWayne Hopkins, Mayor

FOR CONSULTANT

William W. Bogert, P.E., Principal



BOGERT

Committed to providing professional and relationship-based engineering services.

4001 River Ridge Drive NE
Cedar Rapids, IA 52402
Office: (319) 377-4629
Fax: (319) 377-8498

EXHIBIT A, SCOPE OF SERVICES

CITY OF MUSCATINE UPDATE ZONING ORDINANCES AGREEMENT FOR ENGINEERING AND/OR LAND SURVEYING SERVICES

1. Update City of Muscatine Title 10 Zoning, Chapter 18 A-P Airport District Ordinance
 - a. Review existing 2/5/1976 ordinance and revise to match current FAA/IDOT requirements.
 - b. Update ordinance to match current approved Airport Layout Plan (ALP) and the current FAR Part 77 imaginary surfaces shown on the approved Airspace Plan.
 - c. Update the Muscatine Municipal Airport Zoning Map, consisting of two sheets and dated October 16, 1975, which is referenced in the current zoning ordinance. Also, create an airport height overlay map.
 - d. In updating the ordinance, follow the guidance provided in Chapter 4, Airport Land Use Compatibility Zones and Appendix Q, Airport Land Use & Height Overlay Zoning Ordinance Outline, in the Iowa Airport Land Use Guidebook at <http://www.iowadot.gov/aviation/airports/IowaAirportLandUseGuidebook2008.htm>.
 - e. Prepare the final ordinance document and provide assistance to the City with the adoption of the ordinance throughout the adoption process.

2. Update City of Fruitland Zoning Ordinance
 - a. Review the existing zoning ordinance.
 - b. Create suggested language for a new airport zoning district, including general description, uses permitted, special uses permitted, building height permitted, plans required, permits required, and any additional regulations.
 - c. In creating the suggested language, follow the guidance provided in Chapter 4, Airport Land Use Compatibility Zones and Appendix Q, Airport Land Use & Height Overlay Zoning Ordinance Outline, in the Iowa Airport Land Use Guidebook at <http://www.iowadot.gov/aviation/airports/IowaAirportLandUseGuidebook2008.htm>.
 - d. Create a land use/height zoning map and a height overlay map.
 - e. Evaluate the impact associated with each map zone.
 - f. Prepare the final ordinance document and provide assistance to the City with the adoption of the ordinance throughout the adoption process.

3. Update Muscatine County Zoning Ordinance

- a. Review the existing zoning ordinance.
- b. Create suggested language for a new airport zoning district, including general description, uses permitted, special uses permitted, building height permitted, plans required, permits required, and any additional regulations.
- c. In creating the suggested language, follow the guidance provided in Chapter 4, Airport Land Use Compatibility Zones and Appendix Q, Airport Land Use & Height Overlay Zoning Ordinance Outline, in the Iowa Airport Land Use Guidebook at <http://www.iowadot.gov/aviation/airports/IowaAirportLandUseGuidebook2008.htm> .
- d. Create a land use/height zoning map and a height overlay map.
- e. Evaluate the impact associated with each map zone.
- f. Prepare the final ordinance document and provide assistance to the County with the adoption of the ordinance throughout the adoption process.

4. Update Louisa County Zoning Ordinance

- a. Review the existing zoning ordinance.
- b. Create suggested language for a new airport zoning district, including general description, uses permitted, special uses permitted, building height permitted, plans required, permits required, and any additional regulations.
- c. In creating the suggested language, follow the guidance provided in Chapter 4, Airport Land Use Compatibility Zones and Appendix Q, Airport Land Use & Height Overlay Zoning Ordinance Outline, in the Iowa Airport Land Use Guidebook at <http://www.iowadot.gov/aviation/airports/IowaAirportLandUseGuidebook2008.htm> .
- d. Create a land use/height zoning map and a height overlay map.
- e. Evaluate the impact associated with each map zone.
- f. Prepare the final ordinance document and provide assistance to the County with the adoption of the ordinance throughout the adoption process.

EXHIBIT B-1, COST SUMMARY
CITY OF MUSCATINE
UPDATE ZONING ORDINANCES
AGREEMENT FOR ENGINEERING AND/OR LAND SURVEYING SERVICES

Task	Planner Hours	Rate	Fee	Tech Hours	Rate	Fee	Clerical Hours	Rate	Fee	Total Fee
City of Muscatine										
Review Iowa Airport Land Use Guidebook	3	\$142	\$426	0	\$84	\$0	0	\$68	\$0	\$426
Review existing zoning ordinance (airport district chapter)	2	\$142	\$284	0	\$84	\$0	0	\$68	\$0	\$284
Update city zoning ordinance airport district chapter	6	\$142	\$852	0	\$84	\$0	4	\$68	\$272	\$1,124
Update existing airport zoning map	6	\$142	\$852	12	\$84	\$1,008	0	\$68	\$0	\$1,860
Create airport height overlay map	6	\$142	\$852	12	\$84	\$1,008	0	\$68	\$0	\$1,860
Evaluate the impact associated with each map zone	6	\$142	\$852	0	\$84	\$0	0	\$68	\$0	\$852
Assist City with adoption of updated ordinance	8	\$142	\$1,136	0	\$84	\$0	0	\$68	\$0	\$1,136
Subtotal	37		\$5,254	24		\$2,016	4		\$272	\$7,542
City of Fruitland										
Review existing zoning ordinance	2	\$142	\$284	0	\$84	\$0	0	\$68	\$0	\$284
Create suggested language for a new airport zoning district	6	\$142	\$852	0	\$84	\$0	4	\$68	\$272	\$1,124
Create land use & height zoning map	3	\$142	\$426	6	\$84	\$504	0	\$68	\$0	\$930
Create airport height overlay map	3	\$142	\$426	6	\$84	\$504	0	\$68	\$0	\$930
Evaluate the impact associated with each map zone	6	\$142	\$852	0	\$84	\$0	0	\$68	\$0	\$852
Assist with adoption of the new ordinance	8	\$142	\$1,136	0	\$84	\$0	0	\$68	\$0	\$1,136
Subtotal	28		\$3,976	12		\$1,008	4		\$272	\$5,256
Muscatine County										
Review existing zoning ordinance	2	\$142	\$284	0	\$84	\$0	0	\$68	\$0	\$284
Create suggested language for a new airport zoning district	6	\$142	\$852	0	\$84	\$0	4	\$68	\$272	\$1,124
Create land use & height zoning map	3	\$142	\$426	6	\$84	\$504	0	\$68	\$0	\$930
Create airport height overlay map	3	\$142	\$426	6	\$84	\$504	0	\$68	\$0	\$930
Evaluate the impact associated with each map zone	6	\$142	\$852	0	\$84	\$0	0	\$68	\$0	\$852
Assist with adoption of the new ordinance	8	\$142	\$1,136	0	\$84	\$0	0	\$68	\$0	\$1,136
Subtotal	28		\$3,976	12		\$1,008	4		\$272	\$5,256

EXHIBIT B-1, COST SUMMARY
 CITY OF MUSCATINE
 UPDATE ZONING ORDINANCES
 AGREEMENT FOR ENGINEERING AND/OR LAND SURVEYING SERVICES

Louisa County										
Review existing zoning ordinance	2	\$142	\$284	0	\$84	\$0	0	\$68	\$0	\$284
Create suggested language for a new airport zoning district	6	\$142	\$852	0	\$84	\$0	4	\$68	\$272	\$1,124
Create land use & height zoning map	2	\$142	\$284	4	\$84	\$336	0	\$68	\$0	\$620
Create airport height overlay map	2	\$142	\$284	4	\$84	\$336	0	\$68	\$0	\$620
Evaluate the impact associated with each map zone	4	\$142	\$568	0	\$84	\$0	0	\$68	\$0	\$568
Assist with adoption of the new ordinance	8	\$142	\$1,136	0	\$84	\$0	0	\$68	\$0	\$1,136
Subtotal	24		\$3,408	8		\$672	4		\$272	\$4,352
GRAND TOTAL	117		\$16,614	56		\$4,704	16		\$1,088	\$22,406

**IOWA DEPARTMENT OF TRANSPORTATION
AGREEMENT
Airport Planning and Zoning**

This AGREEMENT is made between the Iowa Department of Transportation called the "Iowa DOT" and the city of Muscatine, hereafter the "SPONSOR."

1.00 PURPOSE: The purpose of this agreement is to set forth terms, conditions and obligations to develop and enact, as contemplated by the Airport Zoning Act, Iowa Code chapter 329 (2011), an Airport Land Use and Zoning Ordinance for the Muscatine Municipal Airport, hereafter the "Airport" in the City of Muscatine and Muscatine County.

The Zoning Ordinance shall be developed and adopted prior to reimbursement from the Iowa DOT.

The development and adoption of the ordinance shall be referred to as the "Project" and shall be identified by

Project number: 9I130MUT100

Contract number: 14268

2.0 GENERAL PROVISIONS

- 2.01 The SPONSOR shall begin the ordinance development no later than 12 months after the date of this agreement or the Iowa DOT shall have no obligation to make any reimbursement.
- 2.02 The Iowa DOT agrees to reimburse the SPONSOR 85% of the eligible project costs, not to exceed the maximum amount payable of \$25,000, incurred according to the terms of this agreement. Reimbursement will be made in whole dollar amounts only, rounded down.
- 2.03 Payment, as provided for in 2.02, will be made when all zoning ordinances as contemplated by Iowa Code chapter 329 (2011) have been adopted and enacted by each city and county owning or controlling the Airport as well as each city and county within which an airport hazard area or any part thereof appertaining to the Airport is located. For purposes of this agreement, the term "airport hazard area" is defined as set forth in Iowa Code section 329.1(3) (2011).
- 2.04 The Iowa DOT shall not waive any right of authority by making payments pursuant to this agreement, and such payments shall not constitute approval or acceptance of any part of the Project.
- 2.05 Neither the Iowa DOT nor the Sponsor intend to create rights in, and shall not be liable to, any third parties by reason of this agreement.

- 2.06 If any provision of this agreement is held invalid, the remainder of this agreement shall not be affected thereby if such remainder would then continue to conform to applicable law and the intent of this agreement.
- 2.07 The Iowa DOT shall determine what costs charged to the project account are eligible for participation under the terms of this agreement and the SPONSOR shall bear all additional costs accepted and paid.
- 2.08 Notwithstanding any other provisions of this agreement, the Iowa DOT shall have the right to enforce, and may require the SPONSOR to comply with, any and all Conditions and Assurances agreed to herein.
- 2.09 The Iowa DOT's obligations hereunder shall cease immediately, without penalty of further payment being required, in any year for which the General Assembly of the State of Iowa fails to make an appropriation or reappropriation to pay such obligations, and the Iowa DOT's obligations hereunder shall cease immediately without penalty of further payment being required at any time where there are not sufficient authorized funds lawfully available to the Iowa DOT to meet such obligations. The Iowa DOT shall give the SPONSOR notice of such termination of funding as soon as practicable after the Iowa DOT becomes aware of the failure of funding. In the event the Iowa DOT provides such notice, the SPONSOR may terminate this agreement or any part thereof.
- 2.10 The SPONSOR is the contracting agent and, as such, retains sole responsibility for compliance with local, state and federal laws and regulations related to accomplishment of the Project. The sponsor shall ensure compliance with Title VI of the Civil Rights Act of 1964, 78 STAT. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4, and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21 – to the end that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Iowa DOT.
- 2.11 Funding will be available for reimbursement of the project for three fiscal years after the date of this agreement, unless appropriations are withdrawn under 2.09. Assurances in this agreement remain in full force and effect for a period of 20 years from the date of the agreement.

3.00 PROJECT CONDITIONS

- 3.10 The SPONSOR Agrees to:
- a) Contract for all professional services as needed, submitting a copy of any engineering/consultant contract to the Iowa DOT.
 - b) Develop a project schedule and provide quarterly updates to the Iowa DOT. Submit a Request for Reimbursement form to the Iowa DOT, with copies of invoices, and proof of payment for reimbursement at the end of the project.

- c) Submit copies of the adopted ordinances at the completion of the project.
- d) Retain all records relating to project cost, including supporting documents, for a period of three (3) years following final payment by the Iowa DOT, and to make such records and documents available to Iowa DOT personnel for audit. Any consultants working on this project must also provide records for audit upon request.

4.00 SPECIAL PROVISIONS

- 4.01 The zoning ordinance should use the *Iowa Land Use Guidebook* as a reference for development and comply with the Airport Zoning Act, Iowa Code chapter 329 (2011).

5.00 SPONSOR ASSURANCES

By authorizing execution of this agreement the SPONSOR hereby certifies that:

- 5.01 It will not enter into any transaction which would operate to deprive it of any of the rights and powers necessary to perform any or all of the assurances made herein, unless by such transaction the obligation to perform all such covenants are assumed by another public agency found by the Iowa DOT to be eligible under the laws of the State of Iowa to assume such obligations and to have the power, authority, and financial resources to carry out all such obligations. If an arrangement is made for the management or operation of the Airport by any agency or person other than the SPONSOR or an employee of the SPONSOR, the SPONSOR will reserve sufficient rights and authority to insure that the Airport will be operated and maintained in accordance with these assurances.
- 5.02 It will not dispose of or encumber its title or other interests in the site and facilities during the 20-year period of this agreement.
- 5.03 It will operate and maintain in a safe and serviceable condition the Airport and all facilities thereon and connected therewith which are necessary to service the aeronautical users of the Airport and will not permit any activity thereon which would interfere with its use for airport purposes.
- 5.04 Insofar as it is within its power and reasonable, the Sponsor will, either by the acquisition and retention of easements or other interests in or rights for the use of land or airspace and by the adoption and enforcement of zoning regulations, prevent the construction, erection, alteration, or growth of any structure, tree, or other object in the approach areas of the runways of the Airport, which would constitute an obstruction to air navigation according to the criteria or standards prescribed in Section 77.23 as applied to Section 77.25, Part 77, of the Federal Aviation Regulations. In addition, the Sponsor will not erect or permit the erection of any permanent structure or facility which would interfere materially with the use, operation, or future development of the Airport, or any portion of a runway approach area in which the Sponsor has acquired, or hereafter acquires.
- 5.05 It will operate and maintain the facility in accordance with the minimum standards as

may be required or prescribed by the Iowa DOT for the maintenance and operation of such facilities as identified in the Iowa Administrative Code 761-Chapter 720.10

5.06 It will operate the Airport as such for the use and benefit of the public. In furtherance of this covenant (but without limiting its general applicability and effect), the SPONSOR specifically agrees that it will keep the Airport open to all types, kinds, and classes of aeronautical use on fair and reasonable terms without unlawful discrimination among such types, kinds, and classes. The SPONSOR may establish such fair, equal, and not unjustly discriminatory conditions to be met by all users of the Airport as may be necessary for the safe and efficient operation of the airport. The SPONSOR may also prohibit or limit any given type, kind, or class of aeronautical use of the Airport if such action is necessary for the safe operation of the Airport or necessary to serve the civil aviation need of the public. It will operate the Airport on fair and reasonable terms, and without unjust discrimination.

5.07 The SPONSOR will keep up-to-date and provide to the Iowa DOT an airport layout plan. The SPONSOR will not make or permit the making of any changes or alterations in the Airport or any of its facilities other than in conformity with the airport layout plan, if such changes or alterations might adversely affect the safety, utility, or efficiency of the Airport.

6.00 EXECUTION OF THE AGREEMENT. By resolution made a part of this agreement the SPONSOR authorized the undersigned to execute this agreement.

Signed this 16TH day of NOVEMBER, 2012, on behalf of the SPONSOR.

By: [Signature]

Attested: [Signature]

Title: DIV. OF COMMUNITY DEVELOPMENT

Title: Administrative Secretary

Signed this 16 day of July, 2012, on behalf of the Iowa Department of Transportation.

By: [Signature]
Michelle F. McEnany
Director
Office of Aviation