

MICHIGAN DEPARTMENT OF TRANSPORTATION

CITY OF CHARLOTTE

CONTRACT

This Contract is made and entered into this date of _____ by and between the Michigan Department of Transportation (MDOT) and the City of Charlotte (AGENCY) for the purpose of setting forth the obligations and intent of MDOT and the AGENCY as they pertain to the continued operation and maintenance of a Weather Observation and Data Dissemination System (SYSTEM) at the Fitch H. Beach Municipal Airport in Charlotte, Michigan, to enhance aviation safety and efficiency.

Recital:

The SYSTEM is made up of three components or subsystems, commonly known as (a) the Automated Weather Observation System (AWOS), (b) a system to collect the AWOS data for national dissemination (Data Collection System), and (c) a Weather Briefing System.

The parties agree that:

THE AGENCY WILL:

1. Retain ownership of all components of the AWOS but not the Weather Briefing System or the Data Collection System.
2. Continue to provide the following:
 - a. For the Weather Briefing System component:
 - i. A suitable location for a three-foot diameter satellite dish.
 - ii. A location within the terminal building for the weather briefing system equipment that is available to pilots during the terminal building's normal business hours.
 - b. For the AWOS component:
 - i. A location within the airport's boundaries that meets the installation requirements of the current version of Federal Aviation Administration (FAA) Order 6560.20.

- ii. A location within the terminal building for the AWOS data display. Access by pilots to this location during normal business hours will be at the discretion of the AGENCY.
 - c. For the Data Collection System component: A location within the terminal building for the computer.
- 3. Provide up to two local telephone lines and electrical power in accordance with the following:
 - a. The telephone lines must be single party lines. One will be dedicated to the AWOS component and one optional line will be dedicated to the Weather Briefing System component.
 - b. Electrical power requirements:
 - i. 240V, 60Hz, 15 amp, or greater circuit dedicated to the AWOS component.
 - ii. 120V, 60Hz, 15 amp, or greater circuit for the Weather Briefing System component and the Data Collection System component.
 - iii. Pumps, motors, and similar units must be on a separate circuit.
- 4. Not charge for direct or telephone dial-up access to the AWOS or dial out of the Weather Briefing System if the optional telephone line for that system is provided.
- 5. Provide MDOT, its maintenance representative, and/or the Data Collection System service provider (Provider) with access to the SYSTEM upon advance notice for maintenance and for installation, if necessary.
- 6. Pay one hundred percent (100%) of the operational costs for electrical power usage and the telephone lines. These costs cannot be applied as credit toward the AGENCY's fifty percent (50%) share of the maintenance costs and service charges.
- 7. Pay MDOT fifty percent (50%) of the maintenance costs and SYSTEM service charges incurred by MDOT, including administrative costs and costs of scheduled and unscheduled work performed under this Contract, upon being invoiced by MDOT. (See Attachment 1 for AWOS maintenance costs that could be incurred by MDOT.) Maintenance costs incurred by the AGENCY will not be included in the total costs incurred by MDOT, nor will they be applied as credit toward the AGENCY's fifty percent (50%) share of the maintenance costs and service charges.

8. Pay one hundred percent (100%) of the costs to repair damaged underground AWOS cables. If MDOT conducts these repairs, the AGENCY will be invoiced for one hundred percent (100%) of the costs. The AGENCY may pay MDOT directly for reimbursement of these repair costs or may file a claim with its insurance company for reimbursement. (See Section 11 below.) The AGENCY will not be liable for any costs for repairs to any AWOS cable damaged by MDOT.
9. Perform at its sole expense the following maintenance activities:
 - a. Keep the area within one hundred (100) feet of the AWOS mowed to a height not to exceed ten (10) inches.
 - b. Protect the integrity of any underground cables by preventing any trenching or tilling over them.
 - c. Protect the area within one thousand (1,000) feet of the AWOS wind sensors by preventing any construction, clearing those trees identified by MDOT, and controlling the growth of all trees and vegetation in the area, including preventing the growth of any vegetation within the stone pad area around the AWOS and removing any vegetation that grows within this pad.
 - d. Provide assistance to MDOT, the Provider, and the weather briefing service provider for minor troubleshooting, such as checking telephone circuits for dial tone, making visual inspections of sensors, resetting circuit breakers and equipment, making display and equipment checks, replacing units, and resolving telecommunication/internet connection issues.
 - e. Clear snow from AWOS access road, as necessary.
10. Not modify the SYSTEM in any way without the express written consent of MDOT, the FAA, and/or the Provider.
11. The AGENCY or its operators and vendors will continue to maintain, for the duration of this Contract, insurance of the types and amounts provided herein with insurance companies authorized to do business in the State of Michigan. Such insurance will cover all operations under this Contract. The AGENCY will furnish MDOT with (a) certificate(s) of insurance in a form satisfactory to MDOT. The certificate(s) will provide that the policies will not be changed or cancelled until thirty (30) days written notice of change or cancellation is given to MDOT. In the event that a written notice of material change or cancellation is given, MDOT may, at its option, terminate this Contract. The State of Michigan and its departments, agents, boards, commissions, and all employees thereof will be named as additional insureds on all liability policies relating to the providing of services under this Contract.

- a. Workers' Compensation Insurance providing coverage consistent with the workers' compensation statutes and rules for the State of Michigan. Employer's Liability Insurance with minimum limits of Three Hundred Thousand Dollars (\$300,000.00) per occurrence will be provided.
 - b. Comprehensive General Liability Insurance providing limits of Three Hundred Thousand Dollars (\$300,000.00) per occurrence and Five Hundred Thousand Dollars (\$500,000.00) aggregate will be provided. Property damage limits of at least One Hundred Thousand Dollars (\$100,000.00) will be included. A combined single limit policy of Three Hundred Thousand Dollars (\$300,000.00) per occurrence and Five Hundred Thousand Dollars (\$500,000.00) aggregate may be utilized. Coverage will include minimum personal injury protection and contractual liability.
 - c. Property Insurance providing replacement cost coverage for the systems, including all cabling, that are part of this Contract. Coverage will be in the amount of One Hundred Seventy-Five Thousand Dollars (\$175,000.00) per occurrence.
12. Allow MDOT to review all new construction plans for compliance with current AWOS siting standards as set forth in the latest version of FAA Order 6560.20.
 13. Comply with any and all federal, state, and local statutes, ordinances, and regulations and obtain all permits that are applicable to the entry into and the performance of this Contract.

MDOT WILL:

14. Arrange with the Provider for the installation of the Data Collection System, if necessary. Make installation arrangements with the Weather Briefing System provider if necessary.
15. Pay all invoices associated with the operation and maintenance of the SYSTEM except the invoices for electrical power and the telephone lines.
16. Bill the AGENCY for fifty percent (50%) of the service charges and maintenance costs incurred by MDOT for providing management of the SYSTEM and the entire weather network and for conducting scheduled and unscheduled maintenance of the AWOS. (See Attachment 1 for AWOS maintenance costs that could be incurred by MDOT.)
17. Bill the AGENCY for one hundred percent (100%) of the costs incurred by MDOT for repairing damaged AWOS cables. MDOT will not bill the AGENCY for costs incurred to repair any AWOS cables damaged by MDOT.

18. Perform the FAA-required scheduled and unscheduled maintenance of the AWOS. MDOT will provide the FAA Form 6030-1 logbook for entry of all maintenance activities.
19. Replace defective boards and components with serviceable spare items from MDOT's inventory of spare items. In addition, MDOT will make necessary arrangements for the purchase of replacement items or factory repairs when necessary and will pay the factory for those purchases and repairs and for shipping. MDOT will bill the AGENCY for these costs in accordance with Section 16 above.
20. Provide the AGENCY with advance notice of intent to perform scheduled and unscheduled maintenance to allow satisfactory arrangements to be made for access to the SYSTEM.
21. Train AGENCY personnel on proper procedures for making entries in the FAA Form 6030-1 logbook and the AWOS equipment logbook.
22. Act as the AGENCY's representative regarding compliance with FAA rules, regulations, advisory circulars, and directives pertaining to the maintenance and operation of the AWOS.
23. Act as the AGENCY's representative regarding compliance with Federal Communications Commission (FCC) rules and regulations, including modification and renewal of the FCC license for the AWOS transmitter.
24. Discontinue the weather briefing and data collection services and remove the associated components in the event of the following:
 - a. The AGENCY does not comply with the provisions of this Contract; or
 - b. The AGENCY no longer wishes to participate in the program.

GENERAL CONDITIONS:

25. The Provider will retain ownership of the Data Collection System, and the Weather Briefing System provider will retain ownership of the Weather Briefing System.
26. The AGENCY (hereinafter in Appendix A referred to as the "contractor") will comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in Appendix A, dated June 2011, attached hereto and made a part hereof. This provision will be included in all subcontracts relating to this Contract.
27. In accordance with 1980 PA 278, MCL 423.321 *et seq.*, the AGENCY, in performance of this Contract, will not enter into a contract with a subcontractor, manufacturer, or supplier listed in the register maintained by the United States Department of Labor of employers

who have been found in contempt of court by a federal court of appeals on not less than three (3) occasions involving different violations during the preceding seven (7) years for failure to correct unfair labor practices, as prohibited by Section 8 of Chapter 372 of the National Labor Relations Act, 29 USC 158. MDOT may void this Contract if the name of the AGENCY or the name of a subcontractor, manufacturer, or supplier utilized by the AGENCY in the performance of this Contract subsequently appears in the register during the performance period of this Contract.

28. In addition to the protection afforded by any policy of insurance, the AGENCY agrees to indemnify and save harmless the State of Michigan, the Michigan State Transportation Commission, the Michigan Aeronautics Commission, MDOT, the FAA, and all officers, agents, and employees thereof:
- a. From any and all claims by persons, firms, or corporations for labor, services, materials, or supplies provided to the AGENCY in connection with the AGENCY's performance of this Contract; and
 - b. From any and all claims for injuries to or death of any and all persons, for loss of or damage to property, for environmental damage, degradation, and response and cleanup costs, and for attorney fees and related costs arising out of, under, or by reason of the AGENCY's performance of the SERVICES under this Contract, except claims resulting from the sole negligence or willful acts or omissions of said indemnitee, its agents, or its employees.

MDOT will not be subject to any obligations or liabilities by contractors of the AGENCY or their subcontractors or any other person not a party to the Contract without its specific consent and notwithstanding its concurrence with or approval of the award of any contract or subcontract or the solicitation thereof.

It is expressly understood and agreed that the AGENCY will take no action or conduct that arises either directly or indirectly out of its obligations, responsibilities, and duties under this Contract that results in claims being asserted against or judgments being imposed against the State of Michigan, the Michigan State Transportation Commission, the Michigan Aeronautics Commission, MDOT, and/or the FAA, as applicable.

In the event that the same occurs, it will be considered as a breach of this Contract, thereby giving the State of Michigan, the Michigan State Transportation Commission, the Michigan Aeronautics Commission, MDOT, and/or the FAA, as applicable, a right to seek and obtain any necessary relief or remedy, including, but not limited to, a judgment for money damages.

29. With regard to claims based on goods or services that were used to meet the AGENCY's obligation to MDOT under this Contract, the AGENCY hereby irrevocably assigns its right to pursue any claims for relief or causes of action for damages sustained by the State

of Michigan or MDOT due to any violation of 15 USC, Sections 1 - 15, and/or 1984 PA 274, MCL 445.771 - 445.788, excluding Section 4a, to the State of Michigan or MDOT.

The AGENCY shall require any subcontractors to irrevocably assign their rights to pursue any claims for relief or causes of action for damages sustained by the State of Michigan or MDOT with regard to claims based on goods or services that were used to meet the AGENCY's obligation to MDOT under this Contract due to any violation of 15 USC, Sections 1 - 15, and/or 1984 PA 274, MCL 445.771 - 445.788, excluding Section 4a, to the State of Michigan or MDOT as a third-party beneficiary.

The AGENCY shall notify MDOT if it becomes aware that an antitrust violation with regard to claims based on goods or services that were used to meet the AGENCY's obligation to MDOT under this Contract may have occurred or is threatened to occur. The AGENCY shall also notify MDOT if it becomes aware of any person's intent to commence, or of commencement of, an antitrust action with regard to claims based on goods or services that were used to meet the AGENCY's obligation to MDOT under this Contract.

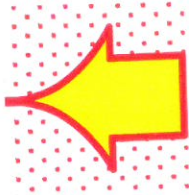
30. MDOT will not be subject to any obligations or liabilities by contractors of the AGENCY or their subcontractors or any other person not a party to this Contract without its specific consent and notwithstanding its concurrence in or approval of the award of any contract or subcontract or the solicitation thereof.
31. Either party may terminate this Contract upon sixty (60) days written notice to the other party.
32. The parties agree that this Contract constitutes the entire contract between the parties and supersedes any and all prior contracts or oral understandings.
33. This Contract will be in effect from December 26, 2015, through three (3) years, unless it is terminated by either party in accordance with Section 31. This Contract may be renewed in writing upon the mutual agreement of the parties not less than (30) thirty days before expiration. This Contract may be renewed for up to two additional one-year periods.

34. This Contract will become binding on the parties and of full force and effect upon signing by the duly authorized representatives of the AGENCY and MDOT and upon adoption of a resolution approving said Contract and authorizing the signature(s) thereto of the respective representative(s) of the AGENCY, a certified copy of which resolution will be sent to MDOT with this Contract, as applicable.

CITY OF CHARLOTTE

By: _____
Title:

By: _____
Title:



MICHIGAN DEPARTMENT OF TRANSPORTATION

By: _____
Title: Department Director



ATTACHMENT 1

Items Included in AWOS Maintenance Expenses That Could Be Incurred by MDOT

Scheduled Maintenance

- Inspections FAA-required annual and two tri-annual inspections in accordance with the FAA-approved AWOS Manufacturer's Logbook. Expenses include labor and travel.
- Preventative May include, but is not limited to, such items as testing and servicing of uninterruptible power supply (UPS) and batteries, cleaning aspirator fan and tube, measuring processor and ceilometer battery levels, overall cleaning and checking condition of all components. Expenses may include labor, travel, and materials.

Unscheduled Maintenance

- Outages Includes troubleshooting and repairs and may include replacement of defective components with MDOT serviceable spares. May also include the costs to repair defective items by outside facilities and/or the purchase of new replacement items. Expenses include labor, travel, materials, outside vendor repairs and purchases, and shipping.

Administration

Involves a share of the oversight of the entire weather network, and includes activities that are not location-specific but are general in nature to all locations. Expenses include, but are not limited to, contract administration and compliance, system monitoring, calibration and repair of required test equipment and standards, items and supplies purchased that will be used for all locations, and time spent to arrange and coordinate inspection schedules with the FAA and to review Miss Dig tickets.

APPENDIX A

PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Public Act 453 of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220 of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising such labor union or workers' representative of the contractor's commitments under this Appendix.
6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.

7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor, as well as the contractor itself, and said contractor shall permit access to the contractor's books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.
9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each subcontractor or supplier.

Revised June 2011