City of Elkhart
Elkhart Municipal Airport

BOARD OF AVIATION COMMISSIONERS
Wednesday August 28, 2024
Elkhart Municipal Airport, First Floor
Administration Building
1211 CR 6 West
Elkhart, IN 46514

Meeting AGENDA

Rod Roberson
Mayor

Andy Jones
Airport Director

Elkhart Municipal Airport
1211 CR 6 W
Elkhart, Indiana 46514

Maintenance:
574.361.2123

Administration Office:
574.264.5217

1. Call to Order:
2. Approval of Minutes: July 31, 2024
3. Approval of Claims:
4. Airport Manager's Report:
5. Old Business:
   a. Agreement between EKM control tower & South Bend control tower.
   b. Agreement between EKM control tower, South Bend control tower and Chicago Air Route control center.
6. New Business:
   a. Notice to award 10-unit T-Hangar/Taxilane project.
   b. Execute the construction services agreement with BF&S.
   c. T-Hangar 3 lease.
   d. Wheels Up lease addendum.
   e. Amendment to the Master Lease Agreement for the Snow Broom.
   f. Donation fund expenditure, Toby Steffen funeral flowers.
7. Privilege of the floor
8. Adjournment
9. **NEXT REGULAR BOAC MEETING 09/25/24 4:00 p.m.**

City of Elkhart
Board of Aviation Commissioners Meeting
July 31, 2024

The Board of Aviation Commissioners meeting was called to order by Commissioner Doug Thorne at 4:00 pm on Wednesday, July 31, 2024 at the Elkhart Municipal Airport Administration Building, 1211 CR 6 W, Elkhart, Indiana 46514. Commissioners Bruce Shreiner, Shari Mellin and Tom Shoff were present. Also present were: Karen Shaw, Kevin Davis, Ryan Sherwood, David Sandsmark & Paul Shaffer. Andy Jones was absent.

Approval of Minutes:
Mr. Shreiner made a MOTION to approve the minutes of the June 26, 2024 meeting. Mr. Shoff SECONDED the motion. There being no further discussion, the motion PASSED unanimously.

Approval of Claims:
Ms. Mellin made a MOTION to approve claims as submitted for $11,685.26. Mr. Shreiner SECONDED the motion. There was a board question regarding purchases from Amazon. Karen Shaw explained that these were purchases made for the Maintenance Department for a concrete saw blade, and heavy-duty floor mats for the new F-350 trucks. There being no further discussion, the motion PASSED unanimously.

Airport Manager's Report:
Andy Jones written Manager's Report reads as follows: David Sandsmark is the permanent Airfield Maintenance Manager. David has been promoted from an Aviation Maintenance Tech position and has already demonstrated good leadership skills. We extended an employment offer to Steve Balk for one of the two open Aviation Maintenance Tech positions, which he has accepted.
Steve is an existing city employee with very good qualifications. Steve will start here on August 5, 2024. We are working with the city HR dept. on the selection of the next candidate for the other open maintenance position. We have several prospects to interview. Once those positions are filled we will begin the over-all airport safety training. Everyone who will be operating the new snow and ice control broom this winter will get special training this fall from the broom's vendor. Another of the three overhead maintenance building doors is broken. David is working on finding a qualified overhead door repair company to get it back in working order. The FY 2025 Aviation Department budget has been submitted to the Mayor. We are waiting for feedback on our proposed budgets. We have had a very busy month with school field trips. Hundreds of students between the ages of 8-17 have visited.
Thank you
Andy Jones

Old Business:
Mr. Thorne advised the first item under Old Business is the agreement between EKM control tower & South Bend control tower. Kevin Davis advised that the agreement should remain tabled until he has received requested feedback from the FAA. Mr. Davis anticipates having more information by next month's BOAC meeting. Mr. Shreiner made a MOTION for the question to remain tabled until August 2024. Ms. Mellin SECONDED. There being no further discussion, the motion to table PASSED unanimously.

Mr. Thorne advised the last item under Old Business is the agreement between EKM control tower, South Bend control tower and Chicago Air Route control center. Mr. Davis advised same as above this is still under legal review. Mr. Shreiner made a motion for the question to remain tabled until the August meeting. Ms. Mellin SECONDED. There being no further discussion, the motion to table PASSED unanimously.

City of Elkhart
Board of Aviation Commissioners Meeting
July 31, 2024

Mr. Thorne advised there are no items under New Business.

Privilege of the Floor:
Mr. Thorne opened comments. Mr. Paul Shaffer with Butler Fairman & Seufert offered the suggestion of conducting a meeting with himself, Andy, the Mayor's office, and at least one BOAC member to talk about the Bi-Partisan (BIL) grant in relation to the T-Hangar/Taxilane project. Mr. Thorne advised he sees no objection with this, and also suggested a special meeting can be called if needed. Mr. Shreiner, Ms. Mellin, and Mr. Shoff agreed. Mr. Shaffer advised he will reach out to Andy to discuss his suggestion.

Adjournment:
Mr. Shreiner made a MOTION to adjourn. Mr. Shoff SECONDED. There being no further discussion, the meeting adjourned.

Next regular BOAC meeting is scheduled for Wednesday, August 28, 2024 at 4pm. Location will be the Elkhart Municipal Airport Administration Building, 1211 County Road 6 W., Elkhart, IN 46514 & via WebEx.

Respectfully Submitted,

Shari Mellin

Shari Mellin – Aviation Board Secretary

28 Aug. 2024
Date

BOARD OF AVIATION COMMISSION

CLAIM AND ALLOWANCE DOCKET

I HEREBY CERTIFY THAT EACH OF THE ABOVE LISTED VOUCHERS AND INVOICES OR BILLS ATTACHED THERETO ARE TRUE AND CORRECT AND I HAVE AUDITED SAME IN ACCORDANCE WITH IC 5-11-10-1.6. I ALSO HEREBY CERTIFY THAT THESE VOUCHERS AND INVOICES REPRESENT GOODS AND/OR SERVICES THAT ARE FOR THE BENEFIT OF THE CITY OF ELKHART AND THAT APPROPRIATIONS FOR THESE EXPENDITURES HAVE BEEN DULY MADE OR OTHERWISE AUTHORIZED BY THE CITY COUNCIL AND OTHER APPROPRIATE AUTHORITY.

August 26 ,2024

JAMIE ARCE -CITY CONTROLLER

IN RELIANCE ON THE ABOVE CERTIFICATION, CLAIMS IN THE TOTAL AMOUNT OF **$10,656.70** AS LISTED ON THE REGISTER ATTACHED HERETO **CONSISTING OF 4 PAGES**, ARE HEREBY APPROVED EXCLUDING ANY CLAIMS WITHHELD AS SHOWN ON THE SEPARATE SUMMARY OF PENDING CLAIMS.

EXECUTED THIS 28TH DAY OF August 2024 BY:

PRESIDENT _____
DOUG THORNE

VICE PRESIDENT Bruce A Shreiner
BRUCE SHREINER

SECRETARY Shari Mellin
SHARI MELLIN

TREASURER Tom Shoff SKM
TOM SHOFF

MEMBER _____

ORIGINAL COPY MUST BE RETAINED IN THE CONTROLLER'S OFFICE

BOARD OF AVIATION COMMISSION

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DOUG THORNE

VICE PRESIDENT

BRUCE SHREINER

SECRETARY

SHARI MELLIN

TREASURER

TOM SHOFF

ENTERED against SS

MEMBER

ORIGINAL COPY MUST BE RETAINED IN THE CONTROLLER'S OFFICE

City of Elkhart

Expense Approval Report
By Fund

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
Fund: 2206 - AVIATION					
ZACHERY MILLER	aj062924	08/28/2024	June port toilet svc at kayak la	2206-5-201-4390900	135.00
TYCOL SUPPLIES INC	28684	08/28/2024	Repairs to mowing equipment	2206-5-201-4360200	272.96
YODER OIL COMPANY INC	INV-303536	08/28/2024	Fuel for maint vehicles	2206-5-201-4220210	3,278.72
Menard, INC	59134	08/28/2024	Bldg materials	2206-5-201-4230110	23.98
JHK INC	003994-IN	08/28/2024	First aid kit refills	2206-5-201-4220320	17.96
AMAZON CAPITAL SERVICES I	111V-LP4M-Q6LX	08/28/2024	Operating & household suppli	2206-5-201-4220150	207.42
AMAZON CAPITAL SERVICES I	111V-LP4M-Q6LX	08/28/2024	Operating & household suppli	2206-5-201-4220310	10.99
CINTAS CORP.	4200337419	08/28/2024	Uniform cleaning contract	2206-5-201-4360400	21.12
Menard, INC	59354	08/28/2024	Operating & household suppli	2206-5-201-4220150	5.78
Menard, INC	59354	08/28/2024	Operating & household suppli	2206-5-201-4220310	45.96
Menard, INC	59361	08/28/2024	Bldg materials	2206-5-201-4230110	60.94
HAWKINS WATER TECH, INC	1056335	08/28/2024	Cooler rent for maint dept	2206-5-201-4220150	12.50
4IMPRINT, INC	12815734	08/28/2024	Balsa gliders with EKM logo	2206-5-201-4220150	785.64
SHOFF SECURITY SERVICES , I	151456	08/28/2024	Alarm monit Maint bldg-Aug,	2206-5-201-4360400	208.50
RICOH USA, INC	5069882896	08/28/2024	July 2024 copies	2206-5-201-4370200	10.55
AMAZON CAPITAL SERVICES I	16NW-DYXV-R9C9	08/28/2024	Office supplies	2206-5-201-4210500	73.59
CINTAS CORP.	4201069487	08/28/2024	Uniform cleaning contract	2206-5-201-4360400	21.12
Menard, INC	59967	08/28/2024	Bldg materials	2206-5-201-4230110	36.97
TELE-COMMUNICATIONS, INC	I263174	08/28/2024	ATC handset for radio	2206-5-201-4220150	120.87
Menard, INC	60189	08/28/2024	Household & Bldg mat supplie	2206-5-201-4220310	41.79
Menard, INC	60189	08/28/2024	Household & Bldg mat supplie	2206-5-201-4230110	50.02
McDOUGAL ENTERPRISES, IN	29122	08/28/2024	Repairs of gates	2206-5-201-4360100	2,976.42
CINTAS CORP.	4201787858	08/28/2024	Uniform cleaning contract	2206-5-201-4360400	82.24
Menard, INC	60305	08/28/2024	Bldg materials	2206-5-201-4230110	19.44
LIVING GRAPHICS INC.	43529	08/28/2024	Bus cards & tower flight strips	2206-5-201-4210500	121.52
RIGG'S MOWERS & MORE, IN	1384598	08/28/2024	String trimmers	2206-5-201-4230300	1,127.97
Menard, INC	60622	08/28/2024	Items for bldg mat & househo	2206-5-201-4220310	13.49
Menard, INC	60622	08/28/2024	Items for bldg mat & househo	2206-5-201-4230110	74.72
CINTAS CORP.	4202498577	08/28/2024	Uniform cleaning contract	2206-5-201-4360400	27.00
Menard, INC	60697	08/28/2024	Items for admin renovations	2206-5-201-4430500	67.84
Menard, INC	60841	08/28/2024	Bldg materials	2206-5-201-4230110	97.15
Menard, INC	60852	08/28/2024	Items for admin renovations	2206-5-201-4430500	7.75
				Fund 2206 - AVIATION Total:	**10,057.92**
				Grand Total:	**10,057.92**

Report Summary

Fund Summary

Fund		Expense Amount
2206 - AVIATION		10,057.92
	Grand Total:	10,057.92

Account Summary

Account Number	Account Name	Expense Amount
2206-5-201-4210500	Office Supplies	195.11
2206-5-201-4220150	Operating Supplies	1,132.21
2206-5-201-4220210	Gasoline	3,278.72
2206-5-201-4220310	Household, Laundry, & C	112.23
2206-5-201-4220320	Medical, Surgical	17.96
2206-5-201-4230110	Building Materials	363.22
2206-5-201-4230300	Small Tools & Minor Equ	1,127.97
2206-5-201-4360100	Repairs & Maint - Bldg	2,976.42
2206-5-201-4360200	Repairs To Equipment	272.96
2206-5-201-4360400	Maintenance Contract	359.98
2206-5-201-4370200	Equipment Leases	10.55
2206-5-201-4390900	Other Services & Charge	135.00
2206-5-201-4430500	Buildings	75.59
	Grand Total:	10,057.92

Project Account Summary

Project Account Key		Expense Amount
None		10,057.92
	Grand Total:	10,057.92

City of Elkhart

Expense Approval Report
By Fund

Payment Dates 7/27/2024 - 8/23/2024

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
Fund: 2206 - AVIATION					
COMCAST CABLE	INV0003931	08/16/2024	8771402050907961 1211 C	2206-5-201-4320400	194.13 ✓
COMCAST CABLE	INV0003964	08/16/2024	8771402050907656 1139 C	2206-5-201-4320400	74.42 ✓
NORTHERN INDIANA PUBLIC S	INV0003965	08/16/2024	7375580016 1321 CR 6W	2206-5-201-4350200	66.00 ✓
ELKHART PUBLIC UTILITIES	INV0003966	08/16/2024	1203336003 1211 CR 6W	2206-5-201-4350400	59.20 ✓
ELKHART PUBLIC UTILITIES	INV0003967	08/16/2024	1203335600 1139 CR 6W	2206-5-201-4350400	58.18 ✓
ELKHART PUBLIC UTILITIES	INV0003968	08/16/2024	1203335800 1205 CR 6W, 2	2206-5-201-4350400	10.85 ✓
NORTHERN INDIANA PUBLIC S	INV0003970	08/16/2024	6440000093 1211 CR 6W	2206-5-201-4350200	136.00 ✓
				Fund 2206 - AVIATION Total:	**598.78**
				Grand Total:	**598.78**

✓ 08-16 - EFax - 3.98
✓ 08.16 - Comcast Phone - 291.42
✓ 08.02 - Cell - 80.92

Report Summary

Fund Summary

Fund		Payment Amount
2206 - AVIATION		598.78
	Grand Total:	598.78

Account Summary

Account Number	Account Name	Payment Amount
2206-5-201-4320400	Telephone & Communic	268.55
2206-5-201-4350200	Natural Gas	202.00
2206-5-201-4350400	Water & Sewer	128.23
	Grand Total:	598.78

Project Account Summary

Project Account Key		Payment Amount
None		598.78
	Grand Total:	598.78

City of Elkhart, Indiana
the city with a heart

MEMORANDUM

DATE: August 28, 2024

TO: Board of Aviation Commissioners

FROM: Andy Jones

RE: **Award bid for EKM 10-unit T-Hangar/Taxilane Project & Alternates 1 & 2:**

At the June 26, 2024 Board of Aviation Commissioners meeting, bids were opened for Elkhart Airport's 10-unit T-Hangar and Taxilane construction project plus Alternate 1 (Mill & resurface taxilane) & Alternate 2 (remove & replace Hangar 39 apron) The results are as follows:

1. **New Tech Construction:**
   a. Bid for 10 unit T-Hangar - $950,000.00- Alt 1 $58,007.50, Alt 2 $81,918.56
2. **R. Yoder Construction:**
   a. Bid for 10 unit T-Hangar - $1,076,683.00-No bid for Alternates
3. **Sotebeer Construction:**
   a. Bid for 10 unit T-Hangar - $1,199,558.99-No bid for Alternates

4. **New Tech Construction:**
   a. Base bid for Taxilane - $577,677.00
5. **Reith-Riley Construction:**
   a. Base bid for Taxilane - $813,780.00
6. **Milestone Contractors:**
   a. Base bid for Taxilane - $696,789.30

The project is being funded by an FAA Bi-Partisan (BIL) grant and a local 5% match.
The action requested by the Board of Aviation Commissioners is as follows:

Award Bid to New Tech Construction, who submitted the lowest responsive bid, in the amount of $950,000.00 for the 10-unit T-Hangar project, $577,677.00 for the Taxilane project, $58,007.50 for Alternate 1, and $81,918.56 for Alternate 2 for a total of $1,667,603.06 pending City funding & approval by City Legal.

Please award the bid to New Tech Construction and give permission for the Board of Aviation Commissioners President to sign the contract pending City funding & City Legal approval.

Thank you,

Andy Jones

Andy Jones

Most recent CIP from INDOT/FAA

Federal F.Y.2024-2029 Anticipated Airport Capital Improvement Program										
Airport Name	Project Year	Entitlement Funds	Apportionment Funds	Discretionary Funds	BIL Allocation Funds	Matching State Funds	Matching Local Funds	Total Cost	BIL Funds Contract Towe	Project Description
Elkhart	2024							$0		NPE Rollover
Elkhart	2024				$763,800	$42,433	$42,433	$848,667		Construct Taxilane and 10-unit T-hanger, Phase 1 reimbursement
Elkhart	2024					$1,325	$1,325	$26,500	$25,175	Air Traffic Control Tower Improvements
Elkhart	2025	$450,000		$1,350,000		$100,000	$100,000	$2,000,000		Rehabilitate RW 18/36 - Construction
Elkhart	2025				$294,000	$16,333	$16,333	$326,667		Construct Taxilane and 10-unit T-hanger, Phase 2 reimbursement
Elkhart	2026	$150,000	$329,312			$26,628	$26,628	$532,569		Land Acquisition for Approach Protection, Easements and Parcels 67 & 77 -
Elkhart	2026				$294,000	$16,333	$16,333	$326,667		Construct Taxilane and 10-unit T-hanger, Phase 3 reimbursement
Elkhart	2027	$122,283				$6,794	$6,794	$135,870		Runway 18-36 Lighting Rehabilitation - Design
Elkhart	2028	$177,717		$632,283		$45,000	$45,000	$900,000		Runway 18-36 Lighting Rehabilitation - Construction
Elkhart	2029	$120,000				$6,667	$6,667	$133,333		Taxiway D Lighting Rehabilitation - Environmental/Design
Elkhart	2029	$30,000	$75,000			$5,833	$5,833	$116,667		Taxiway D Pavement Rehabilitation - Environmental/Design

NOTICE OF AWARD

TO: New Tech Corporation
477 N 414 E
Valparaiso, IN 46383-8464

PROJECT Description:

BID PACKAGE "A" TAXILANE, BID PACKAGE "B" 10 UNIT T-HANGAR, ALTERNATE 1 - MILL & RESURFACE TAXILANE, and ALTERNATE 2 - REMOVE AND REPLACE HANGAR 39 APRON

The OWNER has considered the BID submitted by you for the above described work in response to its Advertisement for Bids, Information for Bidders, and Proposal submitted on June 26, 2024.

You are hereby notified that your BID has been accepted for items in the amount of

$ ONE MILLION SIX HUNDRED SIXTY-SEVEN THOUSAND DOLLARS AND SIX CENTS ($1,667,603.06).

You are required by the Information for Bidders to execute the Agreement and furnish the required CONTRACTOR'S Performance BOND, Payment BOND, and certificate of insurance within 30 calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said BONDS within 10 days from the date of this Notice. You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this 28 day of August 2024.

CITY OF ELKHART BOARD OF AVIATION COMMISSIONERS
ELKHART, INDIANA

By Bruce D Shreeve

Title V. P.

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged by _____

this the _____ day of _____, 2024.

By_____

Title_____

END OF NOTICE OF AWARD

CONSTRUCTION CONTRACTOR'S AGREEMENT
City of Elkhart Board of Aviation Commissioners

THIS AGREEMENT, **made effective as of** Aug 28, 2024 **is**

BY AND BETWEEN

the OWNER:

CITY OF ELKHART BOARD OF AVIATION COMMISSIONERS
ELKHART MUNICIPAL AIRPORT
1211 COUNTY ROAD 6
ELKHART, IN 46514

And the CONTRACTOR:

NEW TECH CORPORATION
477 N 414 E
VALPARAISO, IN 46383-8464

WITNESSETH:

WHEREAS it is the intent of the Owner to make improvements at ELKHART MUNICIPAL AIRPORT generally described as follows;

BID PACKAGE "A" TAXILANE, BID PACKAGE "B" 10 UNIT T-HANGAR, ALTERNATE 1 - MILL & RESURFACE TAXILANE, and ALTERNATE 2 - REMOVE AND REPLACE HANGAR 39 APRON

hereinafter referred to as the Project.

NOW THEREFORE in consideration of the mutual covenants hereinafter set forth, OWNER and CONTRACTOR agree as follows:

Article 1 - Work

It is hereby mutually agreed that for and in consideration of the payments as provided for herein to the CONTRACTOR by the OWNER, CONTRACTOR shall faithfully furnish all necessary labor, equipment, and material and shall fully perform all necessary work to complete the Project in strict accordance with this Contract Agreement and the Contract Documents.

Article 2 – Contract Documents

CONTRACTOR agrees that the Contract Documents consist of the following: this Agreement, Advertisement for Bid, General Provisions, Technical Provisions, Special Provisions, Drawings, all issued addenda, Instructions to Bidders, Proposal and associated attachments, Performance Bond, Payment Bond, Wage Rate Determination, Insurance certificates, documents incorporated by reference, documents incorporated by attachment, and all OWNER authorized change orders issued subsequent to the date of this agreement. All documents comprising the Contract Documents are complementary to one another and together establish the complete terms, conditions and obligations of the CONTRACTOR. All said Contract Documents are incorporated by reference into the Contract Agreement as if fully rewritten herein or attached thereto.

Article 3 – Contract Price

In consideration of the faithful performance and completion of the Work by the CONTRACTOR in accordance with the Contract Documents, OWNER shall pay the CONTRACTOR an amount equal to:

$ ONE MILLION SIX HUNDRED SIXTY-SEVEN THOUSAND SIX HUNDRED THREE DOLLARS AND SIX CENTS ($1,667,603.06).

subject to the following:

a. Said amount is based on the schedule of prices and estimated quantities stated in CONTRACTOR'S Bid Proposal, which is attached to and made a part of this Agreement;
b. Said amount is the aggregate sum of the result of the CONTRACTOR'S stated unit prices multiplied by the associated estimated quantities;
c. CONTRACTOR and OWNER agree that said estimated quantities are not guaranteed and that the determination of actual quantities is to be made by the OWNER'S ENGINEER;
d. Said amount is subject to modification for additions and deductions as provided for within the Contract General Provisions.

Article 4 – Payment

Upon the completion of the work and its acceptance by the OWNER, all sums due the CONTRACTOR by reason of faithful performance of the work, taking into consideration additions to or deductions from the Contract price by reason of alterations or modifications of the original Contract or by reason of "Extra Work" authorized under this Contract, will be paid to the CONTRACTOR by the OWNER after said completion and acceptance.

CONTRACTOR shall submit Applications for Payment in accordance the General Provisions. Applications for Payment will be processed by OWNER or ENGINEER as provided in the General Provisions.

The acceptance of final payment by the CONTRACTOR shall be considered as a release in full of all claims against the OWNER, arising out of, or by reason of, the work completed and materials furnished under this Contract.

OWNER shall make progress payments to the CONTRACTOR in accordance with the terms set forth in the General Provisions. Progress payments shall be based on estimates prepared by the ENGINEER for the value of work performed and materials completed in place in accordance with the Contract Drawings and Specifications.

Progress payments are subject to retainage requirements as set forth in the General Provisions.

In the event that all subcontractors, material suppliers, laborers, or those furnishing services have not been paid, the Owner shall withhold money from the Contract Price in an amount sufficient to pay all such outstanding claims. Any such claims paid by the Owner shall reduce the Contract Price. The Owner shall comply with the payment procedures set out in Indiana Code 36-1-12-12 and Indiana Code 36-1-12-13.

Article 5 – Contract Time

The CONTRACTOR agrees to commence work within ten (10) calendar days of the date specified in the OWNER'S Notice-to-Proceed. CONTRACTOR further agrees to complete said work within **Continuous 180 calendar days** of the commencement date stated within the Notice-to-Proceed.

It is expressly understood and agreed that the stated Contract Time is reasonable for the completion of the Work, taking all factors into consideration. Furthermore, extensions of the Contract Time may only be permitted by execution of a formal modification to this Contract Agreement in accordance with the General Provisions and as approved by the OWNER.

Article 6 – Liquidated Damages

The CONTRACTOR and OWNER understand and agree that time is of essence for completion of the Work and that the OWNER will suffer additional expense and financial loss if said Work is not completed within the authorized Contract Time. Furthermore, the CONTRACTOR and OWNER recognize and understand the difficulty, delay, and expense in establishing the exact amount of actual financial loss and additional expense. Accordingly, in place of requiring such proof, the CONTRACTOR expressly agrees to pay the OWNER as liquidated damages the non-penal sum of $250.00 per day for each calendar day required in excess of the authorized Contract Time.

Furthermore, the CONTRACTOR understands and agrees that;

a. the OWNER has the right to deduct from any moneys due the CONTRACTOR, the amount of said liquidated damages;
b. the OWNER has the right to recover the amount of said liquidated damages from the CONTRACTOR, SURETY or both.

Article 7 – CONTRACTOR'S Representations

The CONTRACTOR understands and agrees that all representations made by the CONTRACTOR within the Proposal shall apply under this Agreement as if fully rewritten herein.

Article 8 – CONTRACTOR'S Certifications

The CONTRACTOR understands and agrees that all certifications made by the CONTRACTOR within the Proposal shall apply under this Agreement as if fully rewritten herein. The CONTRACTOR further certifies the following;

a. Certification of Eligibility (29 CFR Part 5.5)
   i. By Entering into this contract, the CONTRACTOR certifies that neither he or she nor any person or firm who has an interest in the CONTRACTOR'S firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1);
   ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1);
   iii. The penalty for making false statements is prescribed in the U.S. Criminal Code 18 U.S.C.

b. Certification of Non-Segregated Facilities (41 CFR Part 60-1.8)
   The federally-assisted construction CONTRACTOR, certifies that it does not maintain or provide, for its employees, any segregated facilities at any of its establishments and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The BIDDER certifies that it will not maintain or provide, for its employees, segregated facilities at any of its establishments and that it will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity Clause, which is to be incorporated in the contract.

   As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms, and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are

segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason. The Bidder agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding

$10,000 which are not exempt from the provisions of the Equal Opportunity Clause and that it will retain such certifications in its files.

Article 9 – Miscellaneous

a. CONTRACTOR understands that it shall be solely responsible for the means, methods, techniques, sequences and procedures of construction in connection with completion of the Work;

b. CONTRACTOR understands and agrees that it shall not accomplish any work or furnish any materials that are not covered or authorized by the Contract Documents unless authorized in writing by the OWNER or ENGINEER;

c. The rights of each party under this Agreement shall not be assigned or transferred to any other person, entity, firm or corporation without prior written consent of both parties;

d. OWNER and CONTRACTOR each bind itself, their partners, successors, assigns and legal representatives to the other party in respect to all covenants, agreements, and obligations contained in the Contract Documents.

e. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

f. If within one year after the date of Substantial Completion, or such longer period of time as may be prescribed by Laws or Regulations of the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any work found to be unacceptable, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions, either correct such unacceptable Work, or if it has been rejected by Owner, remove if from the site and replace it with acceptable Work. If Contractor does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the unacceptable Work corrected or the rejected Work removed and replaced, and all direct, indirect, and consequential costs of such removal and replacement (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals) will be paid by Contractor. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Written Amendment.

g. If, instead of requiring correction or removal and replacement of unacceptable Work, Owner (and prior to Engineer's recommendation of final payment, also Engineer) prefers to accept it, Owner may do so. Contractor shall bear all direct, indirect and consequential costs attributable to Owner's evaluation of and determination to accept such unacceptable work (such costs to be approved by Engineer as to reasonableness and to include, but not be limited to, fees and charges of engineers, architects, attorneys and other professionals). If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, the Owner shall be entitled to an appropriate decrease in the Contract

Price, and, if the parties are unable to agree as to the amount thereof, Owner may take a claim therefor, as provided in Section 90 of the General Provisions. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

h. IT IS FURTHER AGREED AND UNDERSTOOD BY AND BETWEEN THE PARTIES HERETO, that the work to be performed under this contract are for the occupancy and use of OWNER and the CONTRACTOR hereunder expressly agrees that all the CONTRACTOR'S obligations, including guarantees, bonds and performance standards shall inure directly in favor of the OWNER its own name and right without the necessity of joining any other party of this Contract.

Article 10 – OWNER'S Representative

The OWNER'S Representative, herein referred to as ENGINEER, is defined as follows:

Butler, Fairman & Seufert, Inc.
8450 Westfield Boulevard, Suite 300
Indianapolis, IN 46240

Said ENGINEER will act as the OWNER'S representative and shall assume all rights and authority assigned to the ENGINEER as stated within the Contract Documents in connection with the completion of the Project Work.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have executed five (5) copies of this Agreement on the day and year first noted herein.

OWNER

Name: Bruce D. Shreiner

Address: _____

By: Bruce D Shreiner
Signature

_____
Title of Representative

ATTEST

By: _____
Signature

_____
Title of Representative

CONTRACTOR

Name: _____

Address: _____

By: _____
Signature

_____
Title of Representative

ATTEST

By: _____
Signature

_____
Title

CONSTRUCTION CONTRACTOR'S AGREEMENT
EXHIBIT A
CONTRACTOR'S BID PROPOSAL
Itemized Proposal Section

					New Tech Corp	
Bid Package A - Taxilane Construction						
ITEM NO.	SPEC. REF.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT
General Site Work: Work outside of Building Footprint						
S1	CE-95-2.1	Production Staking by Contractor	L.S.	1	7,500.00	7,500.00
S2	M-102-2.1-1	Maintenance of Traffic	L.S.	1	3,500.00	3,500.00
S3	C-100	Contractor Quality Control Program	L.S.	1	15,000.00	15,000.00
S4	C-105	Mobilization	L.S.	1	48,000.00	48,000.00
S5	C-102-5.1	Installation and Removal of Temporary Silt Fence	L.F.	730	5.00	3,650.00
S6	L-108 - 5.1	No. 8 AWG, 5 kV, L-824, Type C Cable, Installed in Trench, Duct Bank or Conduit	L.F.	200	30.00	6,000.00
S7	L-108 - 5.2	No. 6 AWG, Solid, Bare Copper Counterpoise Wire, Installed in Trench or Plowed-In, Above the Duct Bank or Conduit, Including Connections/Terminations	L.F.	185	25.00	4,625.00
S8	L-110-5.1	Electrical Duct Bank, PVC, 2 BK 2"	L.F.	130	25.00	3,250.00
S9	L-110-5.2	Electrical Duct , PVC, 1 BK 3"	L.F.	45	33.00	1,485.00
S10	P-152-4.1	Unclassified Excavation (Waste disposed of on site)	C.Y.	3,996	14.50	57,942.00
S11	INDOT 303	Compacted Aggregate, No. 53	C.Y.	1,300	110.00	143,000.00
S12	P-403-8.2	Asphalt Base Course	TON	890	140.00	124,600.00
S13	P-403-8.1	Asphalt Surface Course	TON	540	170.00	91,800.00
S14	P-603-5.1	Emulsified Asphalt Tack Coat	Gal.	470	3.50	1,645.00
S15	P-605-5.1	Asphalt Joint Sealing	L.F.	500	6.00	3,000.00
S16	P-620-5.1	Pavement Marking, 6 in, Yellow, with Reflective Media	S.F	300	15.00	4,500.00
S17	D-701-5.1	Pipe, Corrugated Aluminum, 12 inch	L.F.	100	95.00	9,500.00
S18	D-752-1.1	12 inch, Pipe End Section	Ea.	2	2,500.00	5,000.00
S19	F-162-5.2	20' Rolling Cantilever Gate (Black Vinyl Coated)	Ea.	1	30,000.00	30,000.00
S20	T-901-5.1	Seeding	KSF	76	180.00	13,680.00
						577,677.00
Alternate 1 - Mill & Resurface Taxilane						
P1	C-105	Mobilization	L.S.	1	500.00	500.00
P2	P-101-5.1	Cold Milling, 1.5"	SYD	2,650	4.75	12,587.50
P3	P-403-8.1	Asphalt Surface Course, 1.5"	TON	230	165.00	37,950.00
P4	P-603	Emulsified Asphalt Tack Coat	Gal.	320	3.50	1,120.00
P5	P-620-5.1	Pavement Marking, 6 in, Yellow, with Reflective Media	S.F.	390	15.00	5,850.00
						58,007.50
Alternate 2 - Remove and Replace Hangar 39 Apron						
P6	C-105	Mobilization	L.S.	1	3,900.00	3,900.00
P7	P-101-5.2	Pavement Removal	SYD	1,150	3.14	3,611.00
P8	INDOT 303	Compacted Aggregate, No. 53	TON	391	86.66	33,884.06
P9	P-403-8.2	Asphalt Base Course	TON	166	140.00	23,240.00
P10	P-403-8.1	Asphalt Surface Course	TON	100	170.00	17,000.00
P11	P-603	Emulsified Asphalt Tack Coat	Gal.	81	3.50	283.50
						81,918.56
Bid Package B - T-Hangar Construction						
ITEM NO.	SPEC. REF.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT
Allowance	Utility Co.	Electrical service from road to building	L.S.	1	20,000.00	20,000.00
Base bid - 6 Unit T-Hangar						
B1	6-Unit Building	Pre-Engineered Building with Bi Fold Doors (Includes the building delivered to the site)	L.S.	1	260,000.00	260,000.00
B2	6-Unit Building	General Construction Work (Includes floor slab, foundations, building erection, and excavation for the building. It does not include any site work beyond the building walls)	L.S.	1	300,000.00	300,000.00
B3	6-Unit Building	Electrical (Includes Service Connection, main panel, sub panels, overhead lighting, outlets, door operators, coordination with power company, exterior poles, lighting, gate operator, loops, and key pads)	L.S.	1	60,000.00	60,000.00
						620,000.00
Alternate 1 - 8 Unit T-Hangar						
B1	8-Unit Building	Pre-Engineered Building with Bi Fold Doors (Includes the building delivered to the site)	L.S.	1	330,000.00	330,000.00
B2	8-Unit Building	General Construction Work (Includes floor slab, foundations, building erection, and excavation for the building. It does not include any site work beyond the building walls)	L.S.	1	390,000.00	390,000.00
B3	8-Unit Building	Electrical (Includes Service Connection, main panel, sub panels, overhead lighting, outlets, door operators, coordination with power company, exterior poles, lighting, gate operator, loops, and key pads)	L.S.	1	75,000.00	75,000.00
						795,000.00
Alternate 2 - 10 Unit T-Hangar						
B1	10-Unit Building	Pre-Engineered Building with Bi Fold Doors (Includes the building delivered to the site)	L.S.	1	390,000.00	390,000.00
B2	10-Unit Building	General Construction Work (Includes floor slab, foundations, building erection, and excavation for the building. It does not include any site work beyond the building walls)	L.S.	1	470,000.00	470,000.00
B3	10-Unit Building	Electrical (Includes Service Connection, main panel, sub panels, overhead lighting, outlets, door operators, coordination with power company, exterior poles, lighting, gate operator, loops, and key pads)	L.S.	1	90,000.00	90,000.00
						950,000.00

END OF CONSTRUCTION CONTRACT

CORPORATE RESOLUTION

BE IT RESOLVED, that the proposed contract (the "Contract") with _____ _____ (hereinafter "Owner"), as Owner, and this Corporation, as Contractor, for _____, in the form submitted to this Board is hereby approved.

BE IT FURTHER RESOLVED, that this Corporation shall furnish performance and payment bonds (the "Bonds") in the amount of one hundred percent (100%) of the amount of the Contract to Owner and to such other parties as Owner may designate, with a good and sufficient surety acceptable to Owner, and the Bonds and surety shall be in the usual form acceptable in the State of Indiana for work of the nature covered by the Contract. The Bonds and such surety are hereby approved.

BE IT FURTHER RESOLVED, that _____ of this Corporation be and is hereby authorized and directed to execute, acknowledge, and deliver the Contract and the Bonds for and on behalf of and in the name and as the act of this Corporation with such changes therein not inconsistent with this Resolution and not substantially adverse to this Corporation as may be approved by the officers, and that such are not substantially adverse to this Corporation, shall be conclusively evidenced by the execution of the Contract and the Bonds by such officers.

CERTIFICATION

I, _____, hereby certify:

1. That is am the duly elected Secretary of _____ _____ (the "Corporation") and as such am authorized to execute and deliver this Certificate and have in may possession and under by direct supervision, records and minutes of the meetings of the board of Directors of the Corporation.

2. The foregoing is a true, correct and complete copy of the Resolutions duly adopted by the Corporation's Board of Directors at a meeting duly convened and held on

_____, 20_____, at which a quorum was present and acting throughout, which Resolutions have not been altered, amended, or repealed, have been in full force and effect at all times since the date of their adoption and are in full force and effect on the date hereof.

3. Each person, who as an officer of the Corporation, executed the Contract and the Performance and Payment Bond authorized by said Resolution, was duly elected or appointed, qualified and acting as such officer at the time of such execution and delivery of the Contract and the Performance and Payment Bond, and the signatures of such persons appearing on the Contract and the Performance and Payment Bond are their true and genuine signatures. The Contract and the Performance and Payment Bond, as executed, were in substantially the form presented to said Board of Directors as referred to in said Resolution.

Dated: _____, 20 _____.

_____

Secretary

END OF CORPORATE RESOLUTION

PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

CONTRACTOR (*Name and Address*):

SURETY (*Name, and Address of Principal Place of Business*):

OWNER (*Name and Address*):

CONTRACT
Effective Date of Agreement:
Amount:
Description (*Name and Location*):

BOND
Bond Number:
Date (*Not earlier than Effective Date of Agreement*):
Amount:
Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

_____ (Seal)
Contractor's Name and Corporate Seal

By: _____
Signature

_____
Print Name

_____
Title

Attest: _____
Signature

_____
Title

SURETY

_____ (Seal)
Surety's Name and Corporate Seal

By: _____
Signature (Attach Power of Attorney)

_____
Print Name

_____
Title

Attest: _____
Signature

_____
Title

Note: Provide execution by additional parties, such as joint venturers, if necessary.

Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.

1. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 2.1.

2. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
   2.1 Owner has notified Contractor and Surety, at the addresses described in Paragraph 9 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor, and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and
   2.2 Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 2.1; and
   2.3 Owner has agreed to pay the Balance of the Contract Price to:
      1. Surety in accordance with the terms of the Contract; or
      2. Another contractor selected pursuant to Paragraph 3.3 to perform the Contract.

3. When Owner has satisfied the conditions of Paragraph 2, Surety shall promptly, and at Surety's expense, take one of the following actions:

   3.1 Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or
   3.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
   3.3 Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 5 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or
   3.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
      1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or
      2. Deny liability in whole or in part and notify Owner citing reasons therefor.

4. If Surety does not proceed as provided in Paragraph 3 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 3.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.

5. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 3.1, 3.2, or 3.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:

5.1 The responsibilities of Contractor for correction of defective Work and completion of the Contract;
5.2 Additional legal, design professional, and delay costs resulting from Contractor's Default, and resulting from the actions of or failure to act of Surety under Paragraph 3; and
5.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.

6. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators, or successors.

7. Surety hereby waives notice of any change, including changes of time, to Contract or to related subcontracts, purchase orders, and other obligations.

8. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located, and shall be instituted within two years after Contractor Default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

9. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.

10. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

11. Definitions.

11.1 Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.
11.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
11.3 Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
11.4 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – (*Name, Address and Telephone*) Surety Agency or Broker: Owner's Representative (*Engineer or other party*):

END OF PERFORMANCE BOND

PAYMENT BOND

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

CONTRACTOR (*Name and Address*):

SURETY (*Name, and Address of Principal Place of Business*):

OWNER (*Name and Address*):

CONTRACT
Effective Date of Agreement:
Amount:
Description (*Name and Location*):

BOND
Bond Number:
Date (*Not earlier than Effective Date of Agreement*):
Amount:
Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

_____ (Seal)
Contractor's Name and Corporate Seal

By: _____
Signature

_____
Print Name

_____
Title

Attest: _____
Signature

_____
Title

SURETY

_____ (Seal)
Surety's Name and Corporate Seal

By: _____
Signature (Attach Power of Attorney)

_____
Print Name

_____
Title

Attest: _____
Signature

_____
Title

Note: Provide execution by additional parties, such as joint venturers, if necessary.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.

2. With respect to Owner, this obligation shall be null and void if Contractor:

   2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
   2.2 Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.

3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.

4. Surety shall have no obligation to Claimants under this Bond until:

   4.1 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
   4.2 Claimants who do not have a direct contract with Contractor:
      1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
      2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
      3. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.

5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.

6. Reserved.

7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.

8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.

9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this

Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders, and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.

14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. Definitions

    15.1 Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
    15.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
    15.3 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract, or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – (*Name, Address, and Telephone*) Surety Agency or Broker: Owner's Representative (*Engineer or other*):

END OF PAYMENT BOND

ALSO INCLUDE WITH CONTRACT, THE FOLLOWING:

CERTIFICATE OF INSURANCE

AC 150/5370-2G SAFETY PLAN COMPLIANCE DOCUMENT (SPCD) WORKSHEET FOR AIRPORT PROJECTS

Contractor's Responsibility

Following Federal Aviation Administration Advisory Circular 150/5370-2G, this SPCD shall be submitted to the Engineer and to the airport operator for review and approval. This should be submitted 14 days prior to the preconstruction conference. The notice-to-proceed cannot be issued without approval of this document.

The SPCD shall be prepared in a detailed, written and pictorial format (if needed) that identifies the timing and methodology for the contractor's compliance with the project's Construction Safety and Phasing Plan (CSPP) located in the construction plans & specifications. Any proposed alteration by the contractor from the CSPP shall be fully explained so a thorough analysis and determination can be made of the proposed modification.

Project Information

Project ID: _____ Airport: _____

Description of Project: _____

Type of Work: _____

Prime Contractor: _____

Address: _____

Contractor Contact: _____ Phone: _____

BOA Project Manager: _____ Phone: _____

Airport Operator Contact: _____ Phone: _____

The following shall complement the safety plan compliance document:

1. Contractor shall have copies of the CSPP and SPCD available at all times for reference by the airport operator and its representatives, and by subcontractors and contractor employees.

Location(s) of CSPP and SPCD: _____

_____

1. Provide a point of contact who will coordinate an immediate response to correct any construction-related activity that may adversely affect the operational safety of the airport. Project will require 24-hour coverage.

Point of Contact: _____ Phone: _____

3. Contractor's on-site employees responsible for monitoring compliance with the CSPP and SPCD whenever active construction is taking place.

Contact Person: _____ Phone: _____
Contact Person: _____ Phone: _____

4. The contractor shall list all proposed deviations or modifications to the CSPP. For each alteration the contractor shall provide:
   a. The reason why the alteration is desired.
   b. Provide sufficient narrative description and/or pictorial descriptions of the proposed change so a complete review of the proposal can be made.
   c. If no alterations are to be made to the CSPP, clearly state; "**No alterations to the CSPP are proposed.**"

   The following are proposed deviations or modifications to the CSPP:

   _____
   _____
   _____

   (Attach additional sheets as needed)

5. The contractor shall provide a list of the specific hazard equipment and lighting that will be employed to ensure compliance with the.

   The following are proposed hazard equipment and lighting for the project:

   _____
   _____
   _____

   (Attach additional sheets as needed)

6. The contractor shall describe the frequency of inspections to ensure construction personnel comply with the CSPP and SPCD and that there are no altered construction activities that could create potential safety hazards. Inspections shall ensure that all proper safety devices, signs, demarcations etc. are in place and in proper working order in accordance with the approved CSPP & SPCD. A Construction Project Daily Safety Inspection Checklist is attached to aid in making a thorough inspection.

   The inspection frequency will be _____

7. Provide a description and schedule for any anticipated supplemental submittal through the airport operator of Form 7460-1 for the purpose of conducting an aeronautical study of contractor equipment such as tall equipment (cranes, concrete pumps, other equipment), stock piles, and haul routes when different from cases previously filed as part of the CSPP.

   An additional Form 7460-1 will/will not (circle one) be required. If additional Forms 7460-1 will be required, they will be submitted by _____

8. Provide a description of contractor's plan to ensure that construction personnel are familiar with the safety procedures and regulations on the airport, the CSPP, and the SPCD.

   _____
   _____

(Attach additional sheets as needed)

SPCD Amendment

The SPCD shall be amended any time there is a construction practice proposed by the contractor that does not conform to the CSPP and SPCD and may impact the airport's operational safety. This will require a revision to the CSPP and SPCD and re-coordination with the airport operator and the FAA in advance.

Certification

I certify that we understand the operational safety requirements of the CSPP and assert that we will not deviate from the approved CSPP and SPCD unless written approval is granted by the airport operator.

Print Name: _____ Title: _____

Signature: _____ Date: _____

Note to Contractor: Please provide copies of your company's general safety policy as an attachment.

Appendix D. AC 150/5370-2G -December 14, 2017

Construction Project Daily Safety Inspection Checklist

The situations identified below are potentially hazardous conditions that may occur during airport construction projects. Safety area encroachments, unauthorized and improper ground vehicle operations, and unmarked or uncovered holes and trenches near aircraft operating surfaces pose the most prevalent threats to airport operational safety during airport construction projects. The list below is one tool that the airport operator or contractor may use to aid in identifying and correcting potentially hazardous conditions. It should be customized as appropriate for each project.

Potentially Hazardous Conditions

Item	Action Required	or	None
Excavation adjacent to runways, taxiways, and aprons improperly backfilled.			☐
Mounds of earth, construction materials, temporary structures, and other obstacles near any open runway, taxiway, or taxi lane; in the related Object Free area and aircraft approach or departure areas/zones; or obstructing any sign or marking.			☐
Runway resurfacing projects resulting in lips exceeding 3 in (7.6 cm) from pavement edges and ends.			☐
Heavy equipment (stationary or mobile) operating or idle near AOA, in runway approaches and departures areas, or in OFZ.			☐
Equipment or material near NAVAIDs that may degrade or impair radiated signals and/or the monitoring of navigation and visual aids. Unauthorized or improper vehicle operations in localizer or glide slope critical areas, resulting in electronic interference and/or facility shutdown.			☐
Tall and especially relatively low visibility units (that is, equipment with slim profiles) — cranes, drills, and similar objects — located in critical areas, such as OFZ and approach zones.			☐
Improperly positioned or malfunctioning lights or unlighted airport hazards, such as holes or excavations, on any apron, open taxiway, or open taxi lane or in a related safety, approach, or departure area.			☐
Obstacles, loose pavement, trash, and other debris on or near AOA. Construction debris (gravel, sand, mud, paving materials) on airport pavements may result in aircraft propeller, turbine engine, or tire damage. Also, loose materials may blow about, potentially causing personal injury or equipment damage.			☐

Item	Action Required	or	None
Inappropriate or poorly maintained fencing during construction intended to deter human and animal intrusions into the AOA. Fencing and other markings that are inadequate to separate construction areas from open AOA create aviation hazards.			☐
Improper or inadequate marking or lighting of runways (especially thresholds that have been displaced or runways that have been closed) and taxiways that could cause pilot confusion and provide a potential for a runway incursion. Inadequate or improper methods of marking, barricading, and lighting of temporarily closed portions of AOA create aviation hazards.			☐
Wildlife attractants — such as trash (food scraps not collected from construction personnel activity), grass seeds, tall grass, or standing water — on or near airports.			☐
Obliterated or faded temporary markings on active operational areas.			☐
Misleading or malfunctioning obstruction lights. Unlighted or unmarked obstructions in the approach to any open runway pose aviation hazards.			☐
Failure to issue, update, or cancel NOTAMs about airport or runway closures or other construction related airport conditions.			☐
Failure to mark and identify utilities or power cables. Damage to utilities and power cables during construction activity can result in the loss of runway / taxiway lighting; loss of navigation, visual, or approach aids; disruption of weather reporting services; and/or loss of communications.			☐
Restrictions on ARFF access from fire stations to the runway / taxiway system or airport buildings.			☐
Lack of radio communications with construction vehicles in airport movement areas.			☐
Objects, regardless of whether they are marked or flagged, or activities anywhere on or near an airport that could be distracting, confusing, or alarming to pilots during aircraft operations.			☐
Water, snow, dirt, debris, or other contaminants that temporarily obscure or derogate the visibility of runway/taxiway marking, lighting, and pavement edges. Any condition or factor that obscures or diminishes the visibility of areas under construction.			☐
Spillage from vehicles (gasoline, diesel fuel, oil) on active pavement areas, such as runways, taxiways, aprons, and airport roadways.			☐

Item	Action Required	or	None
Failure to maintain drainage system integrity during construction (for example, no temporary drainage provided when working on a drainage system).			☐
Failure to provide for proper electrical lockout and tagging procedures. At larger airports with multiple maintenance shifts/workers, construction contractors should make provisions for coordinating work on circuits.			☐
Failure to control dust. Consider limiting the amount of area from which the contractor is allowed to strip turf.			☐
Exposed wiring that creates an electrocution or fire ignition hazard. Identify and secure wiring, and place it in conduit or bury it.			☐
Site burning, which can cause possible obscuration.			☐
Construction work taking place outside of designated work areas and out of phase.			☐

NOTICE TO PROCEED

TO: _____ Date: _____

_____ Project: _____

_____ _____

_____ _____

You are hereby notified under authority of the Board on _____, 20_____, to commence WORK in accordance with the Contract dated _____, 20____, on or before _____, 20_____, and you are to complete the WORK within consecutive _____ calendar days thereafter. The date of completion of all WORK is therefore _____, 20____.

CITY OF ELKHART BOARD OF AVIAITON COMMISSIONERS
ELKHART, INDIANA

By Bruce D Shreiner

Title V.P.

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by _____ _____ this the _____ day of _____, 20 _____.

By_____

Title_____

END OF NOTICE TO PROCEED

City of Elkhart, Indiana
the city with a heart

MEMORANDUM

DATE: August 28, 2024

TO: Board of Aviation Commissioners

FROM: Andy Jones

RE: **Professional Services Agreement between the Elkhart Municipal Airport & Butler, Fairman, & Seufert (BF&S) for the 10-unit T-Hangar & Taxilane Construction Projects and request for the Board President to sign this agreement.**

Please approve the attached agreement, which outlines the professional services agreement between EKM & BF&S for the 10-unit T-Hangar & Taxilane construction projects pending approval from City Legal, the FAA, & Local Funding. Once all approvals are in place, I ask the BOAC to approve this agreement **AND** give permission to the BOAC President to sign this agreement on behalf of the City.

Please approve the attached agreement and give permission for the Board of Aviation Commissioners President to sign this agreement pending all approvals.

Thank you,

Andy Jones

Andy Jones

CITY OF ELKHART, INDIANA

STANDARD FORM OF AGREEMENT FOR PROFESSIONAL SERVICES (Edition 2020)

THIS IS AN AGREEMENT effective as of August 27,2024 ("Effective Date")

between The **City of Elkhart, Indiana, acting by and through its Board of Aviation Commissioners** ("Owner") and **Butler, Fairman and Seufert, Inc., 8450 Westfield Boulevard, Suite 300, Indianapolis, IN 46240** ("Engineer").

For the following Project: ("Project").
10 Unit T-Hangar and Taxilane Construction Services

Owner and Engineer agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 *General*

A. Owner shall have the responsibilities set forth herein and in Exhibit B.

B. Owner shall pay Engineer as set forth in Exhibit C.

C. Owner shall make available to Engineer reports, studies, regulatory decisions, programs, instructions, data, and other written information relating to the Services. Engineer may rely upon said documents without independent verification unless advised by the Owner that verification may be needed such as information from "record drawings" and GIS.

ARTICLE 3 – DEFINITIONS

3.01 *Defined Terms*

A. The terms used in this Agreement and Exhibits, including the singular and plural forms, have the meanings indicated in the following provisions:

1. *Additional Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Exhibit A, Part 2, of this Agreement.

2. *Basic Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Exhibit A, Part 1, of this Agreement.

3. Conflict of Interest - Conflict of interest means that because of other activities or relationships with other persons, a person or entity is unable or potentially unable to render impartial assistance or advice to the City, or the person's or entity's objectivity in performing the contract work is or might be otherwise impaired, or a person or entity has an unfair competitive advantage.

4. *Construction Cost* – The cost to Owner of those portions of the entire Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or Owner's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

5. *Constituent of Concern* – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to [a] the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); [b] the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; [c] the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); [d] the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; [e] the Clean Water Act, 33 U.S.C. §§1251 et seq.; [f] the Clean Air Act, 42 U.S.C. §§7401 et seq.; and [g] any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

6. *Consultants* – Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates, consultants, subcontractors, or vendors.

7. *Contract Documents* – Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor's submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

8. *Documents* – Data, reports, Drawings, Specifications, record drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Contractor to Owner pursuant to this Agreement.

9. *Drawings* – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.

10. Effective Date of the Agreement – The date indicated in this Agreement on which it becomes effective. If no such date is indicated, it means the date on which the last party duly executes this Agreement.

11. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, and authorities.

12. *Reimbursable Expenses* – The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Project.

13. *Resident Project Representative* – The authorized representative of Engineer, if any, assigned to assist Engineer at the Site during the construction phase. The Resident Project Representative will be Engineer's agent or employee and under Engineer's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by Owner.

14. *Specifications* – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

15. *Total Project Costs* – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner's costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.

16. *Work* – The entire construction or the various identifiable parts required to be provided under the contract documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the contract documents.

ARTICLE 4 – SCHEDULE FOR RENDERING SERVICES

4.01 *Commencement*

A. Engineer shall begin rendering services as of the Effective Date of the Agreement.

4.02 *Time for Completion*

A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Exhibit A, and are hereby agreed to be reasonable. The payment of Engineer's fees as set forth in this Agreement are conditioned upon the completion of all Documents no later than **December 2025**.

B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, shall be extended for the period of such delay or Owner shall authorize Engineer to work overtime to make up such lost time, and Engineer's compensation shall be adjusted equitably.

C. If, through no fault of Owner, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services are impaired, or Engineer's services are delayed by reason of any error, inconsistency or omission of Engineer, Engineer shall compensate Owner for and indemnify it against all costs, expenses, liabilities or damages which may accrue as a result of such delay, but only to the extent such costs, expenses, liabilities or damages exceed ten percent (10%), in the aggregate of Engineer's compensation. In addition, Engineer shall provide all necessary services at its own cost, including any overtime costs and expenses, required to make up time lost to Owner because of such delay.

D. If Owner authorizes changes in the scope, extent, or character of the Project, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be mutually agreed upon by the parties.

E. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.

ARTICLE 5 – INVOICES AND PAYMENTS

5.01 *Invoices*

A. *Preparation and Submittal of Invoices.* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C, and in a manner acceptable to Owner. Engineer shall submit its invoices to Owner no more than once per month along with reasonable supporting detail. Owner shall pay approved amounts no later than 40 days after receipt or as Owner's standard practices allow.

5.02 *Payments*

A. Prior to final payment to Engineer, Engineer shall furnish evidence satisfactory to Owner that there are no claims, obligations or liens outstanding in connection with its services. Acceptance of final payment shall constitute a waiver of all claims by Engineer for compensation for its services.

B. Should there be any claim, obligation or lien asserted before or after final payment is made that arises from Engineer's services, Engineer shall reimburse Owner for any costs and expenses, including attorneys' fees, costs and expenses, incurred by Owner in satisfying, discharging or defending against any such claim, obligation or lien, including any action brought or judgment recovered, provided Owner is making payments or has made payments to Engineer in accordance with the terms of this Agreement.

C. Should Engineer or its consultants fail to perform or otherwise be in default under the terms of this Agreement, Owner shall have the right to withhold from any payment due or to become due, or otherwise be reimbursed for, an amount sufficient to protect the Owner from any loss that may result. Payment of the amount withheld shall be made when the grounds for the withholding have been removed.

D. Engineer's expense records shall be maintained in accordance with generally acceptable accounting principles and shall be available to Owner at mutually convenient times for all services to be compensated on the basis of actual cost.

ARTICLE 6 – ESTIMATE OF COST

6.01 *Construction Cost Estimate*

A. Engineer's estimate of the Construction Cost is made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry.

6.02 *Designing to Construction Cost Limit*

A. Owner and Engineer agree to a Construction Cost limit in the amount of **1 million, Six Hundred Fifty Thousand Dollars ($1,650,000.00) through Bipartisan Infrastructure Legislation (BIL) funding.**).

B. The written acceptance by Owner at any time during Basic Services of a revised estimate of the Construction Cost in excess of the then established Construction Cost limit will constitute a corresponding increase in the Construction Cost limit.

C. If the Bidding has not commenced within three months after completion of the final design phase, the established Construction Cost limit will not be binding on Engineer. In such case, Owner shall consent to an adjustment in the Construction Cost limit commensurate with any applicable change in the general level of prices in the construction industry between the

date of completion of the final design phase and the date on which proposals or Bids are sought.

D. If the lowest responsible and responsive proposal or Bid exceeds the established Construction Cost limit by more than thirty percent (30%), Owner may (1) give written approval to increase such Construction Cost limit, or (2) authorize rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's scope, extent, or character to the extent consistent with the Project's requirements and with sound engineering practices. In the case of (3), Engineer shall make recommendations to Owner describing ways to proceed within Owner's budget and modify the Contract Documents as necessary to bring the Construction Cost within the Construction Cost limit. All services of Engineer in respect of this Paragraph shall be at the sole expense of Engineer.

ARTICLE 7 – GENERAL CONSIDERATIONS

7.01 *Standards of Performance*

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer shall be responsible to Owner for the costs of any errors or omissions of the Engineer or of consultants retained by Engineer.

B. Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in Owner-furnished information.

C. Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to written approval of Owner. The retention of such Consultants shall not reduce the Engineer's obligations to Owner under this Agreement.

D. Subject to the standard of care set forth in Paragraph 7.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

E. Engineer and Owner shall comply with applicable Laws and Regulations. Engineer shall comply with Owner-mandated standards that Owner has provided to Engineer in writing.

F. Engineer shall not be required to sign any documents that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.

H. Engineer shall not at any time supervise, direct, or have control over Contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work.

I. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

J. Engineer shall not be responsible for the acts or omissions of any Contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees and its Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made on interpretations or clarifications of the Contract Documents given by Owner without consultation and advice of Engineer.

K. All Contract Documents and Applications for Payment shall be subject to Owner approval.

L. If Engineer's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other construction phase services, then (1) Engineer's services under this Agreement shall be deemed complete no later than the end of the bidding phase; (2) Engineer shall have no shop drawing review obligations during construction; (3) Owner assumes all responsibility for contract administration, construction observation and review, and all other necessary construction phase engineering and professional services; and (4) the interpretation of the bid documents remains the Engineer's responsibility.

7.02 *Use of Documents*

A. Upon the making of final payment to Engineer, Owner shall receive ownership of the property rights of all of the Documents prepared, provided or procured by Engineer or by consultants retained by Engineer. All Documents prepared, provided or procured by Engineer or by consultants retained by Engineer shall be distributed to Owner. All Documents whether printed or electronic media format, and including AutoCad drawings, shall be provided to Owner at anytime upon the Owner's request. If this Agreement is terminated pursuant to Paragraph 7.04.B, Owner shall receive ownership of the property rights of the Documents upon payment for all services rendered according to this Agreement, at which time, Owner shall have the right to use, to reproduce, and to make derivative works of the Documents to complete the Project. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.

B. Owner may use, reproduce or make derivative works from the Documents for extensions of the Project or other projects without the prior authorization of Engineer or its

consultant. However, Owner's use of the Documents for derivative work without Engineer's authorization or involvement is at Owner's sole risk unless negligence of the Engineer's work is the cause of any damages.

C. Similarly, Engineer shall obtain from its consultants property rights and rights of use that correspond to the rights given by Engineer to Owner in this Agreement.

D. A party may rely upon that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

E. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.

F. The Engineer may not use the information gathered or the Documents created for this Project at the Owner's expense without the written consent of the Owner.

7.03 *Insurance*

A. Before commencing its services and as a condition of payment, Engineer shall procure and maintain insurance as set forth in Exhibit D, "Insurance", which will protect it from claims arising out of the performance of its services under this Agreement, whether such services are provided by Engineer or by any of its consultants or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.

B. Engineer shall require its consultants to maintain Comprehensive General Liability, Automobile Liability, Workers Compensation and Professional Liability coverage with a company satisfactory to Owner and with limits acceptable to Owner.

C. Engineer shall maintain Professional Liability insurance with a company satisfactory to Owner for claims arising from any negligent act, error, or omission of Engineer under this Agreement, which shall be a practice policy written for the amounts set forth in Exhibit D, "Insurance" with a deductible not to exceed $100,000. The Professional Liability insurance shall contain prior acts coverage sufficient to cover all services performed by Engineer for this Project. The Professional Liability policy shall be continued in effect for three (3) years following final payment to Engineer. The deductible shall be paid by Engineer.

D. Engineer shall deliver to Owner certificates of insurance evidencing the coverages indicated in Exhibit D, and a copy of its Professional Liability policy. Such certificates and policy shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement. No policy shall be cancelled or modified without thirty (30) days prior written notice to Owner. Such requirement for prior written notice does not apply to modifications caused by claims made against the policy. Engineer and its Professional Liability insurance carrier shall notify Owner within thirty (30) days of any claims made or loss expenses incurred against the Professional Liability policy. Owner shall have the right to notify directly Engineer's Professional Liability insurance carrier of a claim against the policy.

7.04 *Suspension and Termination*

A. *Suspension.*

1. By Owner: Owner may suspend the Project upon seven days written notice to Engineer.

2. By Engineer: If Engineer's services are substantially delayed through no fault of Engineer, Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement.

B. *Termination.* The obligation to provide further services under this Agreement may be terminated:

1. For cause,

a. By either party upon 14 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

b. By Engineer:

1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.

2. For convenience,

a. By Owner effective upon Engineer's receipt of notice from Owner.

C. *Effective Date of Termination.* The terminating party under Paragraph 7.04B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value

would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

D. Payments upon Termination. In the event of any termination under Paragraph 7.04, Engineer will be entitled to invoice Owner and to receive payment for all acceptable services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination.

E. *Delivery of Project Materials to Owner.* Prior to the effective date of termination, the Engineer will deliver to Owner copies of all completed Documents and other Project materials for which Owner has compensated Engineer.

7.05 *Controlling Law*

A. This Agreement shall be governed by the law of the State of Indiana.

7.06 *Successors, Assigns, and Beneficiaries*

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 7.06B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

7.07 *Dispute Resolution*

A. Owner and Engineer agree to make a good-faith effort to resolve any claim, dispute or other matter in question arising out of or related to this Agreement by formal negotiation

between authorized representatives of each party. Formal negotiations shall take place at a mutually acceptable time and place within fifteen (15) days of notice. Formal negotiations pursuant to this Section are confidential and shall be treated as compromise and settlement negotiations for purposes of federal and state rules of evidence.

B. All applicable statutes of limitation and defenses based on the passage of time shall be tolled during the formal negotiation process.

C. Any changes to the Agreement resulting from formal negotiation shall be incorporated into the Agreement by addendum.

D. Any claims not resolved through formal negotiation may be subject to litigation at the discretion of the aggrieved party.

7.08 *Environmental Condition of Site*

A. Owner represents to Engineer that to the best of its knowledge, no known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern are located at or near the Site, including type, quantity, and location.

B. If Engineer encounters an undisclosed Constituent of Concern, Engineer shall notify the Owner and the appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.

7.09 *Indemnification by Engineer*

A. To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, partners, agents, consultants, and employees from and against any and all claims, costs, losses, and damages (including but not limited to, all fees and charges of contractors, engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, death, or to damage to or destruction of tangible property (including any resulting loss of use), but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, partners, employees, or Consultants.

7.10 Conflict of Interest –

A. The Engineer acknowledges and agrees that it does not have a current Conflict of Interest, as defined in Section 3.01, with the Owner and will not have a Conflict of Interest with the Owner during the term of this Agreement, regardless of whether that Conflict of Interest is real or perceived.

B. The Engineer further acknowledges and agrees that the Engineer and its Consultants are not currently providing any services to any third parties and will not provide

services for at least 24 months after the Project is completed that will financially benefit the Engineer and/or its Consultants directly or indirectly.

C. The Owner, in its sole discretion, may waive a Conflict of Interest if the Engineer notifies the Owner of the conflict and fully discloses the nature of the conflict before the effective date of this Agreement.

D. If the Engineer fails to disclose a Conflict of Interest before the effective date of this Agreement, the Owner may terminate this Agreement as provided in paragraph 7.04.

E. If the Engineer or its Consultants breach Subsection 7.10(B), the Owner may disqualify the Engineer from bidding or quoting on any future projects by the Owner, or reject any bids or quotes by the Engineer as not responsible.

F. If the Engineer disputes the determination of the Owner's designated representative that the Engineer has a Conflict of Interest, the Engineer may appeal the designated representative's determination to the Board of Public Works. The Board of Public Work's decision on the matter shall be final.

7.11 *Miscellaneous Provisions*

A. *Notices.* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

B. *Survival.* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

C. *Severability.* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

D. *Waiver.* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

E. *Accrual of Claims.* To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of final payment.

F. The provisions of this Agreement shall be construed according to the laws of the State of Indiana. Any action arising under this Agreement shall be brought in the Federal

District Court for the Northern District of Indiana, or the Circuit or Superior Court of Elkhart County, Indiana.

ARTICLE 8 – E-VERIFY REQUIREMENT

8.01 *Terms*

All terms defined in I.C. § 22-5-1.7 *et seq.* are adopted and incorporated into this section.

8.02 *Enrollment and Participation*

A. Pursuant to I.C. § 22-5-1.7 et seq., Engineer shall enroll in and verify the work-eligibility status of all of its newly-hired employees using the E-Verify program, if it has not already done so as of the date of this Agreement.

B. Engineer shall provide Owner with documentation that it is enrolled and participating in the E-Verify program.

8.03 *Affidavit*

A. Engineer is required to execute an affidavit affirming that: (i) it is enrolled and participating in the E-verify program, and (ii) it does not knowingly employ any unauthorized aliens.

B. This Agreement shall not take effect until said affidavit is signed by Engineer and delivered to Owner along with the documentation of the E-Verify program enrollment and participation.

8.04 *Subcontractors*

A. Should Engineer subcontract for the performance of any work under this Agreement, the Engineer shall require any subcontractor to certify by affidavit that: (i) the subcontractor does not knowingly employ or contract with any unauthorized aliens, and (ii) the subcontractor is enrolled and participating in the E-verify program.

B. Engineer shall maintain a copy of such certification for the duration of the term of any subcontract.

C. Engineer shall also deliver a copy of the subcontractor certification to the Owner within seven days of the effective date of the subcontract.

8.05 *Employment of Unauthorized Aliens*

A. If Engineer, or any subcontractor of Engineer, knowingly employs or contracts with any unauthorized alien, or retains an employee or contract with a person that the Engineer

or subcontractor subsequently learns is an unauthorized alien, Engineer shall terminate the employment of or contract with the unauthorized alien within thirty (30) days.

B. Should the Engineer or any subcontractor of Engineer fail to terminate the employment of, or contract with, the unauthorized alien within thirty (30) days, Owner has the right to terminate this Agreement without consequence.

8.06 *When E-Verify is not Required*

A. The E-Verify program requirements of this Agreement will not apply should the E-Verify program cease to exist.

ARTICLE 9 – EXHIBITS AND SPECIAL PROVISIONS

9.01 *Exhibits Included*

A. Exhibit A, "Engineer's Services," consisting of three (3) page(s).
B. Exhibit B, "Owner's Responsibilities," consisting of one (1) page(s).
C. Exhibit C, "Payments to Engineer for Services and Reimbursable Expenses," consisting of 2 (2) page.
D. Exhibit D, "Insurance," consisting of one (1) page.
E. Exhibit E, "Affidavit of E-Verify Enrollment and Participation" consisting of one (1) page.
F. Exhibit F, "Certification Statement Regarding Investments in Iran," consisting of one (1) page.
G. Exhibit G, "Title VI Notice," consisting of two (2) pages.
H. "Federal Clauses"
I. "Affidavit of E-Verify Enrollment and Participation"

9.02 *Total Agreement*

A. This Agreement constitutes the entire agreement between Owner and Engineer for the Project and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, or modified by a duly executed written instrument.

9.03 *Designated Representatives*

A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

9.04 *Suspension and Debarment*

A. Engineer certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any state department or agency. Engineer will not contract with any Consultant for this project if it or its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any state department or agency. Necessary certification forms shall be provided by the Owner.

9.05 *Investments in Iran*

A. The Engineer shall sign a certification statement regarding investments in Iran, and said statement is incorporated herein.

9.06 *Title VI Notice*

A. The Engineer shall sign an acceptance certification statement regarding Title VI notification and compliance with the City of Elkhart's Title VI Policy during the duration of this agreement, and said statement is incorporated herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

OWNER: City of Elkhart, Indiana, acting by and through its Board of Aviation Commissioners			ENGINEER:
By:	Bruce D. Shreiner	By:	Paul A. Shaffer
Title:	V.P.	Title:	Executive Vice-President
Date Signed:	8-28-24	Date Signed:	July 31, 2024
Attest:	Shari Mellen	Engineer License or Certification No.:	PE10504730
		State of:	Indiana
Address for giving notices:			**Address for giving notices:**
Elkhart City Board of Aviation Commissioners			Butler, Fairman and Seufert, Inc.
1211 County Road 6			8450 Westfield Blvd Suite 300
Elkhart, Indiana 46514			Indianapolis, IN 46240-5920

	Designated Representative: Andy Jones		**Designated Representative**: Paul Shaffer
Title:	Airport Manager	Title:	Executive Vice President
Phone Number:	(574) 903-4815	Phone Number:	(317) 713-4615
Facsimile Number:	(574) 264-0915	Facsimile Number:	(317) 713-4616
E-Mail Address:	Andy.Jones@coei.org	E-Mail Address:	pshaffer@bfsengr.com

This is **EXHIBIT A**, consisting of 3 pages, referred to in and part of the
Agreement between Owner and Engineer for Professional Services

Engineer's Services

A. PROJECT DESCRIPTION

10-Unit T-Hangar and Taxilane. The planned construction contract time including punchlist and closeout is 120 days. Fees have been calculated based on this timeframe.

B. SCOPE OF WORK

1. Bidding Assistance.

1.1 The bidding assistance will include advertising and receiving bids for the 10-Unit T-Hangar and Taxilane project and will include preparation of the Advertisement for Bids, Circulation of electronic Plans and Specifications for potential bidders, and Organization of project plan holder list.

1.2 One pre-bid meeting will be conducted, and any addenda will be issued to clarify contractor's questions

1.3 BF&S will attend the bid opening, prepare a tabulation and evaluation of bids, and will make a formal recommendation to award to the BOAC..

2. Permitting Assistance

2.1 Conduct Work with Contractor to obtain necessary permitting for building and site construction. Expected permits may include but not be limited to:

Construction Stormwater General Permit (CSGP)
City of Elkhart Building Permit
City of Elkhart Site Permit/Zoning Clearance

3. Construction Observation Services

3.1 Observe the work of the Contractor by periodic visits appropriate to the various stages of construction. Site meetings included in this scope includes attendance at the preconstruction meeting and the pre-final inspection. All other site meetings will be billed as resident inspection services.

3.2 Assist in interpretation of the plans and specifications and make recommendations to the **OWNER** as needed.

3.3 Review all material submittals and shop drawings transmitted by the Contractor.

3.4 Prepare all contract documents during construction including progress estimates, change orders, status reports, and correspondence to the Contractor.

3.5 Review and evaluate Contractor proposals for contract changes and make recommendations to the OWNER as to acceptance or rejection.

3.6 Assist the **OWNER** in verifying that the project is acceptable upon completion.

4. Resident Project Representative (RPR) Services

4.1 Provide a resident representative on site while the Contractor is working for the project duration. The RPR will be on site on a part time basis as needed during construction. The RPR will be on site during critical building and site construction events including but not limited to contractor mobilization, construction phase changes, site grading, pavement construction, substantial completion of all work items, and punch list.

4.2 RPR is **ENGINEER's** agent at the site, will act as directed by and under the supervision of **ENGINEER**, and will confer with **ENGINEER** regarding RPR's actions. RPR's dealings in matters pertaining to the on-site work shall in general be with **ENGINEER** and Contractor keeping **OWNER** advised. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with **OWNER** with the knowledge of and under the direction of **ENGINEER**.

4.3 RPR will attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings.

4.4 RPR shall coordinate and schedule all acceptance testing requirements of the contract documents.

4.5 RPR shall conduct on-site observations of the work in progress to assist **ENGINEER** in determining if the Work is in general proceeding in accordance with the Contract Documents.

4.6 RPR shall report to **ENGINEER** whenever RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise **ENGINEER** of Work that RPR believes should be corrected or rejected or should be uncovered for observations, or requires special testing, inspection or approval.

4.7 RPR shall maintain orderly files of correspondence, reports of job conferences, Shop Drawings and samples, reproductions or original Contract Documents including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, **ENGINEERS's** clarifications and interpretations of the Contract Documents, progress reports, and other project related documents.

4.8 RPR shall write a daily report and a FAA weekly report that summarize activities on the site and submit to the **ENGINEER.**

4.9 RPR shall observe that all items on final list have been completed or corrected and make recommendations to **ENGINEER** concerning acceptance.

4.10 RPR shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by **ENGINEER**.

4.11 RPR shall not exceed limitations of **ENGINEERS's** authority as set forth in the Agreement or the Contract Documents.

4.12 RPR shall not undertake any of the responsibilities of Contractor, subcontractor or Contractor's superintendent.

4.13 RPR shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.

4.14 RPR shall coordinate with acceptance testing sub-consultant to ensure all quality assurance testing is accomplished as required by the specifications.

4.15 RPR shall complete the review of certified payrolls for compliance with the Davis Bacon wage requirements on the project.

5. Final Construction Record

5.1 The FAA is now emphasizing that all project records be kept and archived in the ownership of the Airport for 10 years following grant close-out. In order to accomplish this, a CD shall be delivered to the Airport that shall include scanned in records of the following: all material tickets, all certified payrolls, all submittals, all photos, daily reports, and all weekly reports from the project. The compensation for this item has been based upon the Final Construction Record being completed for one grant. If the planned construction phases end up being under more than one grant, additional compensation shall be negotiated for the Final Construction Record.

6. Project Administration Services

6.1 Prepare, submit and coordinate documents for 1 FAA Airport Improvement Program and one State of Indiana Airport Development grant processing relative to the Basic Services during construction.

6.2 Prepare up to 9 FAA and INDOT partial pay requests, including claims for the City of Elkhart.

6.3 Prepare FAA quarterly reports and annual reports while the grant remains open.

6.4 Prepare 1 closeout document and report of final findings.

6.5 Report project status in up to 9 monthly airport Board meetings.

7. Record Drawing Construction Documentation

7.1 Prepare one set of record drawings based on the Contractor's and RPR's information of changes noted during the Project. Record drawings shall be prepared drafted in AutoCAD and delivered in CD format.

8. Warranty Inspection

8.1 Conduct entire project inspection approximately one year after Substantial Completion is achieved. Any unsatisfactory items can be addressed through the warranty process and the contractor.

CHANGES IN WORK

In the event that either the OWNER or the ENGINEER determine that a major change in scope, character or complexity of the work is needed after the work has progressed as directed by the OWNER, both parties in the exercise of their reasonable and honest judgment shall negotiate the changes and the ENGINEER shall not commence the additional work or the change of the scope of the work until a supplemental agreement is executed and the ENGINEER is authorized in writing by the OWNER to proceed.

ADDITIONAL SERVICES

Additional Services would be services required in addition to those specifically described above, or if the **OWNER** or any other local, state, or federal agency shall direct or cause the **ENGINEER** to relocate or rework the project, or any part thereof. The **OWNER** agrees to compensate the **ENGINEER** for Additional Services on the basis of actual hours of work performed on the project at the hourly billing rates noted in APPENDIX "D-1". The Hourly Billing Rates include overhead and fixed fee.

SPECIFICALLY EXCLUDED ITEMS

Items specifically excluded from the scope of work that if requested by the **OWNER** shall be considered Additional Services as described in Appendix C, including the following:

1. A modification of Standards (MOS) submission to the FAA. In the event the findings of the report require the MOS process, submission and coordination with FAA would be considered an additional service to this agreement.
2. Update the current Airport Layout Plan (ALP): Modify the current ALP to include the taxiway relocation, reconfiguration, or other option to meet the current AC 150-1300-13A "Airport Design" standards for the taxiway geometry. The ALP will need to be updated with the findings of the study but will be considered an additional service to this agreement.
3. Airfield Design for the geometric changes.
4. Approach survey and ortho-photogrammetry.

This is **EXHIBIT B**, consisting of 1 page(s), referred to in and part of the
Agreement between Owner and Engineer for Professional Services

Owner's Responsibilities

The **OWNER** shall, within a reasonable time, so as not to delay the services of the **ENGINEER**:

1. Provide full information as to **ENGINEER's** requirements for the Project.

2. Assist the **ENGINEER** by placing at **ENGINEER's** disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

3. Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by **ENGINEER**, obtain advice of an attorney, insurance counselor, and other consultants as **OWNER** deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of **ENGINEER**.

4. Give prompt written notice to the **ENGINEER** whenever the **OWNER** observes or otherwise becomes aware of any defect in the Project.

5. Furnish all existing approvals or permits from all governmental authorities having jurisdiction over the Project. The **ENGINEER** will assist the **OWNER** in identifying and procuring any additional permits associated with this Project.

6. Arrange for access to and make all provisions for the **ENGINEER** to enter upon public and private property as required for the **ENGINEER** to perform services under this **AGREEMENT**.

7. Obtain necessary easements and right-of-way for construction of the Project, including easement and right-of-way descriptions, property surveys and boundary surveys.

8. Furnish to the **ENGINEER**, as requested by the **ENGINEER** or as required by the Contract Documents, data prepared by or services of others, including exploration and tests of subsurface conditions at or contiguous to the site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site.

This is **EXHIBIT C**, consisting of 2 pages, referred to in and part of the
Agreement between Owner and Engineer for Professional Services

Payments to Engineer for Services and Reimbursable Expenses

Engineer's services will be billed monthly. Payment shall be made under the provisions of Article 5. If the Owner has questions or comments concerning our services or charges during the course of the work, they are to be brought to Engineer's attention immediate so that any problem can resolved quickly.

The Owner shall reimburse the Engineer all fees paid to review agencies to secure permits necessary for the project.

A. Amount of Payment

1. The **ENGINEER** shall receive as payment for the work performed under Item No. 2 below, the total fee not to exceed **$52,000.00**, unless a modification of the Agreement is approved in writing by the **OWNER.**

2. The **ENGINEER** will be paid for the following work on a lump sum basis in accordance with the following schedule:

Fee Schedule Summary:

Bidding Assistance	**$ 7,000.00**
Construction Observation	**$18,000.00**
Final Construction Record	**$ 7,000.00**
Project Administration	**$14,000.00**
Record Drawing Construction Documentation	**$ 4,400.00**
Warranty Inspection	**$ 1,600.00**

3. The **ENGINEER** shall receive payment for the following work an hourly not to exceed basis with the following schedule:

Resident Project Representative	**$40,000.00**

4.Reimbursable Expenses

In addition to payments provided for in Paragraph A; the **OWNER** shall pay the **ENGINEER** the actual costs of all Reimbursable Expenses incurred in connection with all Basic and Additional Services. Reimbursable Expenses mean the actual expenses incurred by the **ENGINEER**, such as expenses for: **ENGINEER**'s independent professional associates or consultants approved by the **OWNER** directly in connection with the Project; transportation and subsistence incidental thereto; reproduction of reports, Drawings, Specifications, Bidding Documents and similar Project-related items in addition to those required under Appendix A; and if authorized in advance by the **OWNER**, overtime work requiring higher than regular rates.

Travel	**$2,000.00**
Materials Testing	**$4,000.00**

SCHEDULE OF COMPENSATION
BUTLER, FAIRMAN and SEUFERT, INC.

2024 HOURLY RATE SCHEDULE

Classification		Hourly Rates
E-V	Engineer V	$ 305.00
E-IV	Engineer IV	$ 235.00
E-III	Engineer III	$ 200.00
E-II	Engineer II	$ 160.00
E-I	Engineer I	$ 120.00
FP-V	Field Personnel V – (Project Coordinator)	$ 260.00
FP-IV	Field Personnel IV	$ 210.00
FP-III	Field Personnel III	$ 165.00
FP-II	Field Personnel II	$ 130.00
FP-I	Field Personnel I	$ 105.00
EA-III	Engineer's Assistant III	$ 200.00
EA-II	Engineer's Assistant II	$ 170.00
EA-I	Engineer's Assistant I	$ 120.00
SP-1	Support Personnel I	$ 85.00
C-II	Clerical II	$ 155.00
C-I	Clerical I	$ 95.00
P-III	Planner/Environmental Specialist III	$ 160.00
P-II	Planner/Environmental Specialist II	$ 125.00
P-I	Planner/Environmental Specialist I	$ 115.00
EI-1	Engineer Intern I	$ 80.00

The billing rates are effective January 2024 and may be adjusted annually (beginning January 2025) to reflect changes in the compensation payable to the **ENGINEER**.

This is **EXHIBIT D**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services**

Insurance

Paragraph 7.04 of the Agreement is amended and supplemented to include the following agreement of the parties:

Insurance

A. The limits of liability for the insurance required by paragraph 7.04 of the Agreement for Engineer are as follows:

1. Workers' Compensation:	Statutory
2. Employer's Liability --	
a. Each Accident	$1,000,000
b. Disease, Policy Limit:	$1,000,000
c. Disease, Each Employee:	$1,000,000
3. Commercial General Liability --	
a. Each Occurrence:	$1,000,000
b. General Aggregate:	$2,000,000
c. Products/Completed Operations:	$1,000,000
d. Personal and Advertising	$1,000,000
e. Contractual Liability--	
Each Occurrence:	$1,000,000
General Aggregate	$2,000,000
4. Contractual Liability--	
a. Each Occurrence:	$1,000,000
b. General Aggregate	$2,000,000
5. Excess Umbrella Liability --	
a. Each Occurrence:	$5,000,000
b. General Aggregate:	$5,000,000
6. Business Automobile Liability --	
a. Bodily Injury –Each Accident:	$1,000,000
b. Property Damage –Each Accident:	$1,000,000
7. Professional Liability Insurance	
a. Each Claim Made:	$1,000,000
b. Annual Aggregate:	$1,000,000

This is **EXHIBIT E**, consisting of 1 page, referred to in and part of the
Agreement between Owner and Engineer for Professional Services

AFFIDAVIT OF E-VERIFY ENROLLMENT AND PARTICIPATION

I, **Paul Shaffer**, being first duly sworn, depose and say that I am familiar with and have personal knowledge of the facts herein and, if called as a witness in this matter, could testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the facts contained herein.

2. I am now and at all times relevant herein have been employed by **Butler, Fairman and Seufert, Inc.** ("Engineer")in the position of **Executive Vice President** .

3. I am familiar with the employment policies, practices, and procedures of Engineer and have the authority to act on behalf of the Engineer.

4. Engineer is enrolled and participates in the federal E-Verify program. Documentation of this enrollment and participation is attached as Exhibit "I" and incorporated herein.

5. Engineer does not knowingly employ any unauthorized aliens.

6. To the best of my information and belief, the Engineer does not currently employ any unauthorized aliens.

I swear and affirm under the penalties for perjury that the foregoing statements and representations are true and accurate to the best of my knowledge and belief.

EXECUTED on the 31day of July, 2024.

Printed: Paul A. Shaffer

This is **EXHIBIT F**, consisting of 1 page, referred to in and part of the
Agreement between Owner and Engineer for Professional Services

CERTIFICATION STATEMENT REGARDING INVESTMENTS IN IRAN

I, **Paul Shaffer**, certify to the following:

1. Pursuant to Indiana Code 5-22-16.5 *et seq.*, I am not now engaged in investment activities in Iran.

2. I understand that providing a false certification could result in the fines, penalties, and civil action listed in I.C. 5-22-16.5-14.

EXECUTED on the 31day of July, 2024.

Paul A. Shaffer

Printed: Paul A. Shaffer

This is **EXHIBIT G**, consisting of 2 pages, referred to in and part of the
Agreement between Owner and Engineer for Professional Services

City of Elkhart, Indiana
the city with a heart

Title VI Notice

Title VI Policy

The City of Elkhart, Indiana (Elkhart) is committed to a policy of inclusiveness, fairness, and accessibility of its programs, activities and services to all persons in Elkhart. As provided by Title VI of the Civil Rights Act of 1964 and all related statutes, Elkhart assures that no person shall, on the on the grounds religion, race, color, national origin, sex, age, disability/handicap, sexual orientation, gender identity, limited English proficiency, or low income status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any City of Elkhart program, activity or service. The City of Elkhart further assures every effort will be made to ensure non-discrimination in all of its programs, activities, and services, whether those program, activities and services are federally funded or not. In the event the City of Elkhart distributes Federal aid funds to another entity, the City of Elkhart will include Title VI language in all written agreements.

The Title VI Coordinator is:

Title VI Coordinator
City of Elkhart
229 S 2nd Street
Elkhart, Indiana 46516

Voice: (574) 294-5471
Fax: (574) 293-7658
TDD: (574) 389-0198
Email: titlevicoordinator@coei.org

I hereby certify that I have received the City of Elkhart's "Title VI Notice" and agree to comply with the requirements and provisions of the City of Elkhart's Title VI Policy during the durationof this Agreement with the City of Elkhart.

Signed

Paul A. Shaffer
Printed Name

July 31, 2024
Dated

The City of Elkhart Title VI Policy may be accessed here:

https://elkhartindiana.org/government/human-resources/#tab-b900fced1bdffd36578

City of Elkhart, Indiana
the city with a heart

MEMORANDUM

DATE: **August 28, 2024**

TO: The Board of Aviation Commissioners

FROM: Andy Jones, Airport Director

RE: **Wheels Up – Addendum to Lease Agreement**

The Elkhart Municipal Airport has updated the lease agreement with Wheels Up Private Jets to include current changes regarding fuel storage facility and lease payments. Please approve Addendum No. 1 to the original lease agreement regarding these changes, which have been approved by the City Legal Department. I ask the Board of Aviation Commissioners to approve this and also authorize its Board President to sign this Agreement on behalf of the City.

Please authorize The Board of Aviation Commissioners President to sign the Addendum No. 1 for Wheels Up Private Jets.

Thank you,

Andy Jones

Andy Jones
Airport Director

ADDENDUM NO. 1 TO LEASE AGREEMENT

THIS Addendum to the Lease Agreement dated June 28, 2006 by and between the City of Elkhart Board of Aviation Commissioners (BOAC) and Wheels Up Private Jets LLC, (Wheels UP) is executed this 28 day of August 2024.

WHEREAS, the BOAC owns and operates the Elkhart Municipal Airport (the Airport) located in the City of Elkhart, IN and;

WHEREAS, the Lessee desires to no longer maintain and operate a fuel storage facility;

Now THEREFORE, the parties now desire to amend said original Agreement to include the following items and conditions;

WHEREAS the Lessor and Lessee agree to amend the above referenced agreement to remove Section C – First Refusal. The Lessee hereby releases the Lessor from its obligations under this Agreement to notify the Lessee if its intent to lease the real estate described as Exhibits B and C that is part of the original agreement. The Lessor shall have the right to lease the property in Exhibits B and C to a third party;

WHEREAS, Lessee no longer desires to operate for its own use an aircraft fuel storage facility, Lessor hereby releases Lessee of its obligations under the Agreement in reference to the maintenance, use and liability for the use of the fuel storage facilities. The Lessee no longer has exclusive use of the three (3) 12,000 gallon underground gasoline tanks that are owned by the BOAC. Effective the date of signature of this Addendum, the Lessor releases the Lessee of its obligation to the BOAC the sum of $500 per month for rental of the storage tanks;

WHEREAS, the Lessee's lease payment will be two thousand six hundred and eighty dollars and forty cents ($2,681.40) monthly with the next Cost of Living Adjustment scheduled for June 2027.

BOARD OF AVIATION COMMISSIONERS

Bruce D. Shreiner

~~Doug Thorne~~ Bruce D. Shreiner

~~President~~ V.P.

WHEELS UP PRIVATE JETS LLC

_____

Signature

_____

Print Name

_____

Position

Department of Law
John M. Espar
Corporation Counsel
Rose Rivera
City Attorney
Kevin Davis
Deputy City Attorney
Maria L. Leon
Paralegal
Elizabeth Turner
Paralegal

City of Elkhart

*City with a **Heart***

Rod Roberson
Mayor

City Hall
229 S. Second St.
Elkhart, Indiana 46516

Fax: 574.522.6794
Tel: 574.294.5471 Ext. 1057 or 1059

www.elkhartindiana.org

MEMORANDUM

Date: August 23, 2024

To: The Board of Aviation Commissioners

From: Kevin Davis, Deputy City Attorney

Re: Amendment to the Master Lease Agreement for Snow Broom

Please see the attached amendment to the Master Lease Purchase Agreement between the City of Elkhart and Cross Roads Bank. The Parties desire to modify the lease schedule Number 1 based on the timing of the delivery of the snow broom and subsequent budget cycles that have allowed the City to provide additional funds to apply towards the downpayment. The amendment reflects this payment along with a revision to the amortization schedule.

Please ratify the attached amended Master Lease Purchase Agreement.

Crossroads Bank
and
The City of Elkhart, Indiana
Master Lease Purchase Agreement Schedule Number 1
Dated November 2, 2022

Account Number ML1238-1001

Change in Terms Agreement

This agreement is made and entered into between Crossroads Bank ("Lessor") and the City of Elkhart, Indiana ("Lessee") on August 30, 2024.

Whereas, The City of Elkhart, Indiana entered into a Master Lease Purchase Agreement dated November 2, 2022, and Master Lease Schedule Number 1 dated November 2, 2022, for the lease purchase financing of a new H Series Snow Broom being purchased from MacQueen Equipment, LLC as further described in the lease schedule.

And whereas, the Lessor and Lessee agree that the original terms of Lease Schedule Number 1 were as follows:

Cash Purchase Price of the Equipment: $782,205 Less Trade $35,000 = $747,205
City of Elkhart Cash Down Payment: $160,000
Amount Financed: $587,205
Annual Interest Rate: 4.91%
Number of Semi-Annual Payments Due: 10
First Payment due Lessor: October 1, 2024
Semi-Annual Payment Amount: $71,682.17
Total Unpaid Balance of Lease Schedule Number 1 as of the date of the agreement: $716,821.70

Balance of City of Elkhart Lease Schedule Number 1 escrow account as of the date of this agreement:

Deposit Balance: $587,205.00
Accrued Interest: $ 8,232.44
Total $595,437.44

Balance Due on MacQueen Equipment, LLC. Invoice Number E01016, dated June 28, 2024 for the purchase of the equipment subject of lease schedule no. 1 $747,205.

And whereas, the Lessor and Lessee desire to modify the terms of lease schedule Number 1 as follows:

The City of Elkhart shall make a payment of $52,687.09 representing accrued interest from the lease inception date of November 2, 2022, to August 30, 2024, at 4.91%. This payment shall be paid upon signing of this agreement.

Crossroads Bank will apply the sum of $8,232.44 of interest earned on the City of Elkhart's escrow account from November 2, 2022, to August 30, 2024, to the City's $52,687.09 required payment.

Crossroads Bank will disburse $347,205 to MacQueen Equipment, LLC as partial payment of Invoice No E01016. The City of Elkhart will disburse $400,000 to be applied as a down payment on the equipment to MacQueen Equipment, LLC. These two payments together will make full payment of the purchase price due on the MacQueen Equipment, LLC invoice No. E01016 of $747,205.

The new amount financed under the lease schedule number 1 will amount to $347,205

The Total Unpaid Balance of Lease Schedule Number 1 as of the date of this agreement: shall be $387,969.30

The new rent schedule shall be:

Payment No.	Date	Lease Payment	Interest	Principal	* Prepayment Option
1	10/1/2024	$38,796.93	$1,494.60	$37,302.33	$309,902.67
2	4/1/2025	$38,796.93	$7,608.11	$31,188.82	$278,713.85
3	10/1/2025	$38,796.93	$6,842.43	$31,954.50	$246,759.35
4	4/1/2026	$38,796.93	$6,057.94	$32,738.99	$214,020.36
5	10/1/2026	$38,796.93	$5,254.20	$33,542.73	$180,477.63
6	4/1/2027	$38,796.93	$4,430.73	$34,366.20	$146,111.43
7	10/1/2027	$38,796.93	$3,587.04	$35,209.89	$110,901.54
8	4/1/2028	$38,796.93	$2,722.63	$36,074.30	$74,827.24
9	10/1/2028	$38,796.93	$1,837.01	$36,959.92	$37,867.32
10	4/1/2029	$38,796.93	$929.61	$37,867.32	$0.00
Grand Totals		$387,969.30	$40,764.30	$347,205.00	

Due to Crossroads Bank's lease accounting software requirements the lease account number will change from ML 1238-1001 to ML 1238-1002.

Except as herein modified, the terms and conditions of the Master Equipment Lease Purchase Agreement and Lease Schedule Number 1, and any ancillary agreements shall remain the same and in full force and effect.

Lessee: City of Elkhart, Indiana

By: Bruce D. Shreiner

~~Douglas Thorne, President~~ Board of Aviation Commissioners

Bruce D. Shreiner, V.P.

Lessor: Crossroads Bank

By: _____

Barry Grossman, Sr. Vice President

City of Elkhart, Indiana
the city with a heart

MEMORANDUM

DATE: **08/28/24**

TO: The Board of Aviation Commissioners

FROM: Andy Jones, Airport Director

RE: **Signature on T-Hangar 3 lease**

The Elkhart Municipal Airport has rented T-Hangar 3 to new tenant Donald Ritchie. I ask the Board of Aviation Commissioners to authorize its Board President to sign this Agreement on behalf of the City.

Thank you,

Andy Jones

Andy Jones
Airport Director

Please authorize The Board of Aviation Commissioners President to sign the T-Hangar 3 lease effective August 1, 2024.

New tenant- Hgr 3 20-0359

T-HANGAR LEASE AGREEMENT

This T-Hangar Lease Agreement into this 1st day of August 2024, by and between Elkhart Board of Aviation Commissioners ("Lessor"), and Donald Ritchie ("Lessee"):

WITNESSETH THAT:

1. **LEASE OF T-HANGAR.** The Lessor hereby leases to Lessee and covenants to keep the Lessee in quiet possession of, T-Hangar 3 (The "Premises"). **The Premises herein demised shall be used solely as storage space for aircraft owned by or leased to the Lessee and for no other purpose, subject to the conditions, limitations, and restrictions contained elsewhere in the Agreement.** The following described aircraft is registered with Lessor, and authorized for storage in the Premises:

64'6" Glider Model_____ Registration Number None

If Lessee disposes of the above registered aircraft and does not replace it within One Hundred Twenty (120) days, this Agreement shall automatically terminate. If Lessee purchases or Leases an aircraft different than the one registered above, Lessee shall notify the Lessor within Seven (7) days of such occurrence.

2. **TERMS.** Agreement shall continue in effect from month-to-month, unless terminated under the terms of this Agreement. **Lessee must provide Lessor 30 days advanced written notice to terminate lease agreement.**

3. **PAYMENT.** In consideration whereof, the Lessee agrees to pay the Lessor as monthly rent for the Premises, the sum of $100.00 in advance on or before the first day of each month. The amount of rent may be changed from time to time by the Lessor upon Thirty (30) days prior written notice to Lessee.

In addition to the advance payment of rental for the first month, Lessee shall pay the Lessor the sum of $100.00 which shall be applied as rental for the last month of Lessee's occupancy of the Premises. In the event Lessee shall fail to comply with any provision of this Agreement, said sum may be retained by the Lessor as a security deposit and shall be in addition to any liability for damage to the Premises. Payment shall be made to Controllers Office 229 S. Second Street, Elkhart, Indiana 46516.

4. **USE OF HANGAR.** Lessee agrees to take good care of the Premises and to return the same at the expiration of the term in as good order as received, ordinary wear and tear and natural decay expected. If destruction of the Premises, or any part thereof, proved to be without fault of the Lessee shall occur during the term of this Agreement so as to make the Premises unfit for the purpose hereinabove mentioned, the Lessee may surrender and cancel this Agreement. Lessee agrees that its use of the Premises shall be in conformity with the provisions of this paragraph and further agrees that, any other provision of this Agreement notwithstanding, in the event of any violation of the provisions of this paragraph on the part of the Lessee, the Lessor shall have the right to cancel this Agreement forthwith and without notice.

a. The Premises are for the private use of the Lessee and shall not be used for any commercial purpose, including, but not by way of limitation, the sale of products or services of any kind, whether or not such sales are transacted for a profit.
b. Only the Lessee named in this Lease and no other person shall be allowed to perform preventive maintenance on its aircraft, registered for that hangar, of the kind and to the extent permitted by Federal Aviation Administration Regulation, FAR 43.3 Appendix A, paragraph (c) titled Preventive Maintenance (see reverse Side-Exhibit "A"), and any subsequent amendments.
c. Lessee agrees that use of the Premises shall be in accordance with federal, state and local laws and regulations, including, but not limited to, those pertaining to fire and safety, as well as the Regulations of the Lessor.
d. Lessee's exclusive use is restricted to the Premises designated herein and does not apply to any ramp, apron or taxiway within the T-Hangar area. All such ramp, aprons, or taxiways within the T-Hangar area are common use areas, available to all other users and tenants on the Airport. Lessee agrees that Lessee's aircraft shall not be parked or positioned in such common use areas so as to block, limit or restrict the use of the ramps, aprons or taxiways by other Airport tenants or users.
e. Lessee may place within the Premises a small desk, a workbench, a tool cabinet and necessary small hand tools required for work permitted under subparagraph 4b.
f. Lessee may store parts and accessories for the aircraft registered for the Premises within the Premises; provided, however, storage of any parts, accessories, hulls, or incomplete aircraft, which are not manufactured for use on, or cannot be readily adapted for use on, an aircraft registered for the Premises shall be prohibited.
g. Lessee may park an operable automobile within the T-Hangar, but only an automobile registered to the lessee and subject to any parking rules and regulations issued by the Lessor. The Lessor shall have the right to remove any automobile, at the Lessee's expense, that is parked in an unauthorized area.
h. Lessee may store not more than Five (5) gallons of flammable fluids, or reasonable amounts of aircraft lubricants, within the premises, provided that any such storage shall be limited to MFPA approved containers, or unopened original cans.
i. Lessee has the right to store non-aviation related items owned by the lessee within the premises as long as the lessee also stores an airworthy aircraft registered to the lessee.
j. Lessee will not be permitted to perform repair service on automobile or automotive equipment of any kind, other than an authorized motorized towing vehicle from or at the Premises.
k. Lessee shall not perform painting, or "doping", operations of any kind within the Premises, the use of non-electric, non-combustible, air pressure tanks used to inflate aircraft landing gear tires will be permitted.
l. Lessee shall be responsible to remove all trash from the Premises and deposit it in the containers as designated by Lessor.
m. The doors on the Premises shall be kept closed at all times except for ingress and egress of the aircraft and when the Lessee is present on the Premises.
n. Subject to Lessor approval prior to installation and initial use, Lessee shall be permitted to install and use approved space heaters and engine heater which have a combined maximum load of 9.8 amps or less. Space heaters shall not be used on a continual basis while the aircraft is not in the Premises or while the Lessee is not actually working on the Premises. It shall be the responsibility of the Lessee to request and obtain approval of the installation and use of permitted devices and failure to do so may result in the termination of this Agreement or other action deemed appropriate by the Lessor. In addition to any other remedy or action available to the Lessor, the Lessor shall have, and the Lessee hereby agrees that Lessor shall have, the right to enter onto the Premises and remove there from any and all devices which the Lessor has not specifically approved for installation and use in the Premises. Lessor shall not be held liable for any such loss or damage suffered by the Lessee as a result of such action by the Lessor unless such loss of damage results from negligence by the Lessor, its officers, agents or employees.
o. Washing aircraft, however performed, will not be permitted in the Premises.

p. Installation of furniture or appliances, other than those specifically permitted under other provisions of this Agreement shall be prohibited. This prohibition shall include, but not be limited to, sleeping couches, cots, beds, hot plates, stoves and other cooking devices.

q. Lessee shall dispose of all waste oil in Lessor's approved containers designated for such purposes. Disposal of oil in drains, on the ground, or in any unapproved containers shall result in immediate termination of this Agreement by the Lessor.

r. Lessee shall obey & comply with Lessor Minimum Standards and any modifications made to them.

5. **SUBLEASE/ASSIGNMENT.** The Premises shall not be sublet, assigned, transferred or set over by the act of the Lessee, by process or operation of law or in any other manner whatsoever without the prior written consent of the Lessor. The parking of aircraft not owned or leased by the Lessee in the Premises shall constitute a sublease.

6. **SIGNS.** No signs, emblems, or advertising shall be placed or erected on or in the Premises herein demised, nor shall the Lessee make any alterations, changes or additions to the Premises without Lessor's approval.

7. **DISCLAIMER OF LIABILITY.** Lessor hereby disclaims, and Lessee hereby releases Lessor from any and all liability, whether in contract or tort (including strict liability and negligence), for any loss, damage or injury of any nature whatsoever sustained by Lessor, its employees, agents or invitees during the term of this Agreement, including but not limited to loss, damage or injury to the aircraft or other property of Lessee that may be located or stored in the Hangar, unless such loss, damage or injury is caused by Lessor's gross negligence. The parties hereby agree that under no circumstances shall Lessor be liable for indirect, consequential, special or exemplary damages, whether in contract or tort (including strict liability and negligence), such as, but not limited to, loss or revenue or anticipated profits or other damage related to the leasing the Hangar under this Agreement.

8. **NOTICES.** Notices to the Lessor provided for herein shall be in writing and shall be sufficient if sent by registered mail, postage prepaid, or hand delivered, addressed to Elkhart Municipal Airport, 1211 CR 6 W, Elkhart, Indiana 46514, and notices to the Lessee shall be in writing and shall be sufficient if sent registered mail, postage prepaid, or hand delivered, to the address listed below or to such other respective addresses as the parties may designate to each other in writing from time to time.

9. **INDEMNIFICATION.** The Lessee agrees to indemnify and save the Lessor, its officers, agents and employees harmless from any liability, including, but not limited to, claims, judgments, fines, costs and attorney's fees, to persons or property resulting from or arising out of or in any way connected with the Lessee's use or occupancy of the Premises and/or breach of this Agreement. The Lessor shall not be liable for its failure to perform this Agreement or for any loss, injury, damage or delay of any nature whatsoever resulting therefrom caused by any act of God, fire, flood, accident, strike, labor dispute, riot, insurrection, war or any other cause beyond the Lessor's control.

10. **DEFAULT.** Upon Lessee's failure to pay any installment of rent when due, or in the event of Lessee's neglect or failure to comply with the provisions of this Agreement, the Lessor shall, at its option, have the right to terminate this Agreement and to remove the aircraft and any other property of Lessee from the premises, without being guilty of trespass, breach of peace or forcible entry and detainer, and Lessee expressly waives the service of any notice. Exercise by the Lessor or either or both of the rights specified above shall not prejudice the Lessor's right to pursue any other remedy available to the Lessor in law or equity.

11. **INSPECTIONS.** The Lessee agrees that Lessor shall have the right to enter the Premises at any time for the purpose of making inspections thereof and to take such action and to make such repairs or alterations as are, in the sole opinion of the Lessor, desirable or necessary, and to take such materials into or out of the premises for the safe and economical accomplishment of said purposes without in any way being deemed guilty of an actual or constructive eviction of the Lessee. Lessor, or designated representative, shall annually in May conduct inspections to determine compliance with paragraph 4. Lessee shall provide a means of access whether key or code within 10 days of tenancy.

12. **GOVERNING LAW.** This Agreement shall be construed in accordance with the laws of the State of Indiana.

13. **RELATIONSHIP OF PARTIES.** The relationship between the Lessor and Lessee shall always and only be that of Lessor and Lessee. Lessee shall never at any time during the term of this Agreement become the agent of the Lessor, and the Lessor shall not be responsible for the acts or omissions of Lessee or its agents.

14. **REMEDIES CUMULATIVE.** The rights and remedies with respect to any of the terms and conditions of this Agreement shall be cumulative and not exclusive, and shall be in addition to all other rights and remedies.

EXHIBIT A

FEDERAL AVIATION ADMINISTRATION REGULATIONS
FAR Part 43.3 Appendix A, Paragraph (c)

(c) **Preventive maintenance.** Preventive maintenance is limited to the following work, provided it does not involve complex assembly operations.

1) Removal, installation, and repair of landing gear tires.
2) Replacing elastic shock absorber cords on landing gear.
3) Servicing landing gear shock struts by adding oil, air, or both.
4) Servicing landing gear wheel bearings, such as cleaning and greasing.
5) Replacing defective safety wiring or cotter keys.
6) Lubrication not requiring disassembly other than removal of nonstructural items such as covers plates, cowlings, and fairings.
7) Making simple fabric patches not requiring rib stitching or the removal of structural parts or control surfaces. In the case of balloons, the making of small fabric repairs to envelopes (as defined in, and in accordance with, the balloon manufacturers' instructions) not requiring load tape repair or replacement.
8) Replenishing hydraulic fluid in the hydraulic reservoir.
9) Refinishing decorative coating of fuselage, balloon baskets, wings, tail group surfaces (excluding balanced control surfaces), fairings, cowlings, landing gear, cabin, or cockpit interior when removal or disassembly of any primary structure or operating system is not required.
10) Applying preservative or protective material to components where no disassembly of any primary structure or operating system is involved and where such coating is not prohibited or is not contrary to good practices.

p. Installation of furniture or appliances, other than those specifically permitted under other provisions of this Agreement shall be prohibited. This prohibition shall include, but not be limited to, sleeping couches, cots, beds, hot plates, stoves and other cooking devices.

q. Lessee shall dispose of all waste oil in Lessor's approved containers designated for such purposes. Disposal of oil in drains, on the ground, or in any unapproved containers shall result in immediate termination of this Agreement by the Lessor.

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7. **DISCLAIMER OF LIABILITY.** Lessor hereby disclaims, and Lessee hereby releases Lessor from any and all liability, whether in contract or tort (including strict liability and negligence), for any loss, damage or injury of any nature whatsoever sustained by Lessor, its employees, agents or invitees during the term of this Agreement, including but not limited to loss, damage or injury to the aircraft or other property of Lessee that may be located or stored in the Hangar, unless such loss, damage or injury is caused by Lessor's gross negligence. The parties hereby agree that under no circumstances shall Lessor be liable for indirect, consequential, special or exemplary damages, whether in contract or tort (including strict liability and negligence), such as, but not limited to, loss or revenue or anticipated profits or other damage related to the leasing the Hangar under this Agreement.

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10. **DEFAULT.** Upon Lessee's failure to pay any installment of rent when due, or in the event of Lessee's neglect or failure to comply with the provisions of this Agreement, the Lessor shall, at its option, have the right to terminate this Agreement and to remove the aircraft and any other property of Lessee from the premises, without being guilty of trespass, breach of peace or forcible entry and detainer, and Lessee expressly waives the service of any notice. Exercise by the Lessor or either or both of the rights specified above shall not prejudice the Lessor's right to pursue any other remedy available to the Lessor in law or equity.

11. **INSPECTIONS.** The Lessee agrees that Lessor shall have the right to enter the Premises at any time for the purpose of making inspections thereof and to take such action and to make such repairs or alterations as are, in the sole opinion of the Lessor, desirable or necessary, and to take such materials into or out of the premises for the safe and economical accomplishment of said purposes without in any way being deemed guilty of an actual or constructive eviction of the Lessee. Lessor, or designated representative, shall annually in May conduct inspections to determine compliance with paragraph 4. Lessee shall provide a means of access whether key or code within 10 days of tenancy.

12. **GOVERNING LAW.** This Agreement shall be construed in accordance with the laws of the State of Indiana.

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EXHIBIT A

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FAR Part 43.3 Appendix A, Paragraph (c)

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1) Removal, installation, and repair of landing gear tires.
2) Replacing elastic shock absorber cords on landing gear.
3) Servicing landing gear shock struts by adding oil, air, or both.
4) Servicing landing gear wheel bearings, such as cleaning and greasing.
5) Replacing defective safety wiring or cotter keys.
6) Lubrication not requiring disassembly other than removal of nonstructural items such as covers plates, cowlings, and fairings.
7) Making simple fabric patches not requiring rib stitching or the removal of structural parts or control surfaces. In the case of balloons, the making of small fabric repairs to envelopes (as defined in, and in accordance with, the balloon manufacturers' instructions) not requiring load tape repair or replacement.
8) Replenishing hydraulic fluid in the hydraulic reservoir.
9) Refinishing decorative coating of fuselage, balloon baskets, wings, tail group surfaces (excluding balanced control surfaces), fairings, cowlings, landing gear, cabin, or cockpit interior when removal or disassembly of any primary structure or operating system is not required.
10) Applying preservative or protective material to components where no disassembly of any primary structure or operating system is involved and where such coating is not prohibited or is not contrary to good practices.

11) Repairing upholstery and decorative furnishings of the cabin, cockpit, or balloon interior when the repairing does not require disassembly of any primary structure or operating system or affect primary structure or operating system or affect primary structure of the aircraft.
12) Making small simple repairs to fairings, nonstructural cover plates, cowlings, and small patches and reinforcements not changing the contour so as to interfere with proper airflow.
13) Replacing side windows where that work does not interfere with the structure or any operating system such as controls, electrical equipment, etc.
14) Replacing safety belts.
15) Replacing seats or seat parts with replacement parts approved for the aircraft, not involving disassembly of any primary structure or operating system.
16) Trouble shooting and repairing broken circuits in landing light wiring circuits.
17) Replacing bulbs, reflectors, and lenses of position and landing lights.
18) Replacing wheels and skis where no weight and balance computation is involved.
19) Replacing any cowling not requiring removal of the propeller or disconnection of flight controls.
20) Replacing or cleaning spark plugs and setting of spark plug gap clearance.
21) Replacing any hose connection except hydraulic connections.
22) Replacing prefabricated fuel lines.
23) Cleaning or replacing fuel and oil strainers or filter elements.
24) Replacing and servicing batteries.
25) Removing and installing glider wings and tail surfaces that are specifically designed for quick removal and installation and when such removal and installation can be accomplished by the pilot.
26) Cleaning of balloon burner pilot and main nozzles in accordance with the balloon manufacturer's instructions.
27) Replacement or adjustment of nonstructural standard fasteners incidental to operations.
28) Removing and installing balloon baskets and burners that are specifically designed for quick removal and installation and when such removal and installation can be accomplished by the pilot, provided that baskets are not interchanged except as provided in the type certificate data sheet for that balloon.
29) The installation of anti-misfueling devices to reduce the diameter of fuel tank filler openings provided the specific device has been made a part of the aircraft type certificate data by the aircraft manufacturer, the aircraft manufacturer has provided FAA-approved instructions for installation of the specific device, and installation does not involve the disassembly of the existing tank filler opening.
30) Removing, checking, and replacing magnetic chip detectors.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the date first above written.

Billing Address: 21480 Brownsville Rd.
Cassopolis, MI 49031

LESSEE SIGNATURE: Donald Ritchie

Phone #: 269-228-6581 cell phone

Email: Donald does not have an email address

Combo Code to hangar: 1434

LESSOR
Airport Manager

By: Andy Jones

Printed Name: Andy Jones Andy Jones

BOAC ~~President~~ V.P. Bruce O. Shreiner
~~Doug Thorne~~

City of Elkhart, Indiana
the city with a heart

MEMORANDUM

DATE: August 28, 2024

TO: Board of Aviation Commissioners

FROM: Andy Jones

RE: **Agreement between the City of Elkhart, The St. Joseph County Airport Authority Board & Chicago Air Route Traffic Control Center regarding Operational Contingency Plan Procedures (OCP). I also request the BOAC's permission to have the Air Traffic Control Manager sign this agreement.**

Please approve the attached agreement between the City of Elkhart's Elkhart Municipal Airport (EKM), The St. Joseph County Airport Authority Board & Chicago Air Route Traffic Control Center (ARTCC). This agreement provides operating procedures & establishment of inter-facility coordination requirements between these control tower facilities during periods when one facility is experiencing a service interruption. This agreement has been approved by the City legal department and I ask the BOAC to approve this agreement **AND** give permission for the Air Traffic Control Manager to sign this agreement on behalf of the City.

Please approve the attached agreement and give permission for the Air Traffic Control Manager to sign this agreement.

Thank you,

Andy Jones

Andy Jones

INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY OF ELKHART THE ST. JOSEPH COUNTY AIRPORT AUTHORITY BOARD AND THE CHICAGO AIR ROUTE TRAFFIC CONTROL CENTER

This is an Interlocal Agreement ("Agreement") between the City of Elkhart, Indiana, a political subdivision of the State of Indiana (the "City") and the Federal Aviation Administration (FAA) ("Agreement').

Whereas, Elkhart is authorized to enter into Interlocal Agreements with other governmental units and entities pursuant to Indiana Code § 36-1-7 *et seq.* including entering into an Interlocal Agreement for local airspace interfacility responsibilities and cooperation and operational contingency plans.

Whereas, the Elkhart Municipal Airport serves the air traveling needs of the citizens of the local area and partners in the economic well-being of the northern Indiana area; and

Whereas, the City and the FAA recognize the need for inter-facility responsibilities and coordination; and

Whereas, the City and the FAA, individually and collectively, have determined the need to define coordination requirements, responsibilities for IFR, VFR and Special VFR operations between Elkhart, South Bend, and Chicago towers; and

Whereas, the City and the FAA individually and collectively, understand the need to establish procedures that pertain to the control of IFR, VFR and Special VFR operations within the Elkhart EKM Class D Airspace.

Whereas, Elkhart and the FAA agree to set forth herein the terms and provisions of this Agreement for contingent air traffic control services in order to avoid any misunderstandings and to set forth clearly all terms, provisions, and understandings regarding the duties and responsibilities of Elkhart, St. Joseph and Chicago towers.

Covenants

1. **Recitals Incorporated.** Elkhart and the FAA agree that the Recitals shall be used to interpret this Agreement hereafter.
2. **Purpose.** The purpose of this Agreement is to provide Elkhart, St. Joseph and Chicago towers with a contingency plan in the event one of the air traffic control facilities is unable to provide approach control or tower services.
3. **Scope of Services.** The parties agree to the scope of services as defined in Exhibits A and B attached to this Agreement.
4. **Duration of Agreement, Renewal and Termination.**
    a. The initial term of this Agreement will be four (4) years commencing on the effective date, subject to the approval of this Agreement by all Parties

b. At any time after the commencement date of this Agreement, any party may terminate the Agreement without cause by giving the other Parties One Hundred and Eight (180) days written notice of the intent to terminate.

5. **Independent Contractor**. Each party agrees and acknowledges that each is an independent contractor and the services each provide under this Agreement remain under its exclusive control.
6. **Effectiveness.** This Agreement is effective after the execution date by all Parties and pursuant to Indiana Code §36-1-7-6 upon the Elkhart County Auditor's recording with the Elkhart County Recorder.
7. **Filing.** Pursuant to Indiana Code § 36-1-7-6,the Elkhart County Auditor will file this Agreement with the Indiana State Board of Accounts for audit purposes no later than sixty (60) days after it takes effect and shall provide all parties with evidence of the transmittal to the State Board of Accounts.
8. **Further Assurances.** Each party will, whenever, and as often as it shall be requested to do so by another party, execute, acknowledge, and deliver or cause to be executed, acknowledged and delivered any and all further conveyances, assignments, approvals, consents, and any and all documents, and do any and all other acts as may be necessary to carry out the intent and purposes of this Agreement.
9. **Entire Agreement.** This Agreement represents the entire understanding of the Parties hereto with respect to the subject matter hereof and supersedes any prior understanding between the Parties, whether oral or written. Any amendments to this Agreement shall be in writing and shall be signed by all Parties hereto.
10. **Severability.** If any term, provision, condition or covenant of this Agreement, or application thereof, to any party or circumstances shall to any extent to be held invalid or unenforceable, the remaining terms, provisions, or conditions or covenants of this Agreement shall not be effected thereby, and this Agreement, in each term, covenant, and condition of this Agreement shall otherwise be valid and unenforceable to the fullest extent permitted by applicable law.
11. **Waiver.** Failure to insist upon strict compliance with any terms, covenants, or conditions of this Agreement shall not be deemed a waiver of such terms, covenants, or conditions.
12. **Construction.** The Parties agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement. Both Parties acknowledge that they have had ample opportunity to consult legal counsel and this Agreement represents a joint effort to draft the terms and conditions contained in this Agreement.

So APPROVED this _____ day of _____, 2024

CITY OF ELKHART

By its City Council

South Bend Airport Traffic Control Tower (ATCT), Chicago Air Route Traffic Control Center (ARTCC) and Elkhart Non-Federal Control Tower (NFCT)

LETTER OF AGREEMENT

Effective Date: June 13, 2024

SUBJECT: Operational Contingency Plan (OCP) Procedures.

1. **PURPOSE:** To provide operating procedures and to establish inter-facility coordination requirements for use when either facility is unable to provide air traffic services.

2. **SCOPE:** The procedures are for use by the South Bend ATCT (SBN), Chicago ARTCC (ZAU) and Elkhart NFCT (EKM) during the periods when one facility is experiencing a service interruption.

3. **PROCEDURES:**

   a. When notified that the other facility is unable to provide approach control or tower services, stop all departures and arrivals into the affected facility's airspace.

   b. Assist by whatever means possible in stabilizing the affected facility's airspace.

   c. When notified that the primary support facility has assumed the affected facility's airspace, resume operations with the appropriate sector:

      (1) During contingency operations, South Bend Approach airspace is assumed by ZAU (Kelog sector) on 127.55.

         (a) EKM will:

            1 Contact ZAU (Kelog sector) at (630) 906-8376 for IFR Clearances and releases.

            2 Notify ZAU Kelog and Bearz Sectors (630) 906-8370 of the active runway, type of approach to be utilized.

            3 Notify ZAU (Kelog Sector) of a missed approach.

(b) ZAU will: Forward arrival information (for aircraft landing at EKM) to EKM NFCT (574) 264-9000 during operational hours:

1 Advise prior to 15nm or more from the final approach fix the aircraft identifier, type, ETA, type of approach and arrival direction (if visual approach).

2 Clear aircraft for the approach and issue communications transfer when the arrival is no closer than 5nm from the final approach fix.

3 Not alter the course of departing aircraft until the aircraft has climbed above 3,300' MSL (for EKM NFCT Class D airspace).

(2) During contingency operations, EKM airspace is assumed by South Bend Approach 118.55/132.05.

(a) SBN will:

Turn on the EKM remote transmitter frequency 119.7, during the EKM operating hours.

(b) EKM will:

Provide a NOTAM.

Example:
"EKM SVC TWR U/S CLASS D SERVICE NOT AVBL. CTC SOUTH BEND APPROACH ON 118.55/132.05 IN THE AIR OR 119.7 ON THE GROUND AT EKM."

4. ATTACHMENTS:

a. Contingency Phone Numbers / Frequencies

b. Divestment Map

CHARLES L WILTSIE III Digitally signed by CHARLES L WILTSIE III Date: 2024.06.06 08:46:22 -04'00'

Charles Wiltsie
Air Traffic Manager, South Bend ATCT

ALEX SHARIFF GOVAN Digitally signed by ALEX SHARIFF GOVAN Date: 2024.06.07 08:59:30 -05'00'

Alex Govan
Air Traffic Manager, Chicago ARTCC

Michael Haller
Air Traffic Manager, Elkhart NFCT

FOR OFFICIAL USE ONLY
Public availability to be determined under 5 USC 552

ATTACHMENT A
CONTINGENCY PHONE NUMBERS/FREQUENCIES

	VSCS PABX Recorded Line	**Backup Telephone Non-Recorded Line**	**Frequency**
SBN Approach	(574) 251-2612		118.55/132.05/125.75/124.1
SBN Tower		(574) 251-2614	135.67
EKM Tower		(574) 264-9000	119.5
ZAU Watch Desk	(630) 906-8677 Security Code	(630) 906-8341	
ZAU FD Position	(630) 906-8677 Security Code	(630) 906-8291	
ZAU Kelog	(630) 906-8677 Security Code: 779780	(630) 906-8376	127.55
ZAU Bearz	(630) 906-8677 Security Code: 779735	(630) 906-8370	134.87
DEN	(844) 432-2962		
MOCC	(866) 432-2962		
Air Traffic Managers	**Cell Phone**		
Charles Wiltsie (SBN ATM)	(231) 571-5773		
Michael Haller (EKM ATM)	(574) 855-0293		
Alex Govan (ZAU ATM)	(331) 262-0025		

***SBN ATCT** – if dialing from a facility phone or the TEDS, you must dial a 9 then area code (don't use 1) to call ZAU recorded lines. When using the emergency cell phone, call as normal.

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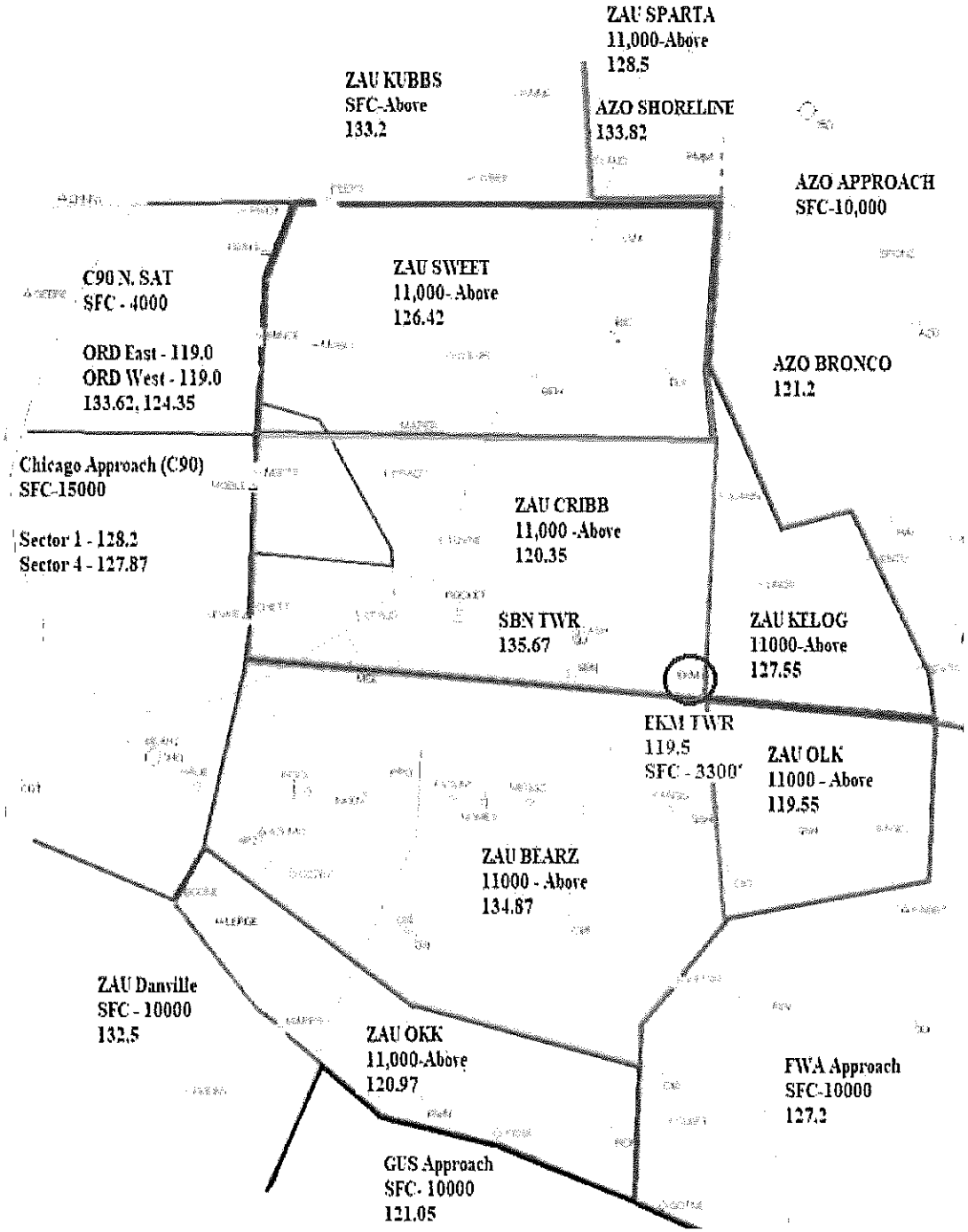
ATTACHMENT B

ACT2 DIVESTMENT MAP



FOR OFFICIAL USE ONLY
Public availability to be determined under 5 USC 552

City of Elkhart, Indiana
the city with a heart

MEMORANDUM

DATE: August 28, 2024

TO: Board of Aviation Commissioners

FROM: Andy Jones

RE: **Agreement between the Elkhart Municipal Airport Control Tower & South Bend Airport Control Tower regarding Inter-Facility responsibilities/Procedures/Coordination. I also request the BOAC's permission to have the Air Traffic Control Manager sign this agreement.**

Please approve the attached agreement between Elkhart Municipal Airport (EKM) & South Bend Airport (SBN). This agreement defines procedures, exchange of control information, arrival/departure handling, & Instrument Flight Rules (IFR) between SBN & EKM Control Towers. This agreement has been approved by the City legal department and I ask the BOAC to approve this agreement **AND** give permission to the Air Traffic Control Manager to sign this agreement on behalf of the City.

Please approve the attached agreement and give permission for the Air Traffic Control Manager to sign this agreement.

Thank you,

Andy Jones

Andy Jones

FEDERAL AVIATION ADMINISTRATION
SOUTH BEND ATCT/ELKHART NFCT
LETTER OF AGREEMENT

Effective Date: July 1, 2024

SUBJECT: Inter-Facility Responsibilities/Procedures/Coordination

1. PURPOSE. This agreement defines procedures, exchange of control information, arrival/departure handling, and IFR departure procedures between the South Bend (SBN) ATCT/ Approach Control (TRACON) and the Elkhart (EKM) NFCT and is supplemental to procedures described in FAA JO 7110.65.

2. SCOPE. The procedures contained herein pertain to the control of IFR and Special VFR (SVFR) operations within the Elkhart (EKM) Class D airspace.

3. CANCELLATION. South Bend ATCT/ Elkhart NFCT Letter of Agreement dated December 1, 2020.

4. RESPONSIBILITIES. Each facility must control the IFR/SVFR/VFR traffic that pertains to this agreement according to the procedures herein.

5. PROCEDURES.

a. Elkhart opening procedures:

(1) EKM will advise when opening the facility.

(2) SBN Approach will advise EKM of any pertinent NOTAMs or PIREPs and must inform the EKM Tower of all known traffic on or near the airport.

(3) SBN Arrival Data will turn off the transmitter for EKM's 119.7 frequency.

b. Elkhart closing procedures:

(1) EKM will announce when closing the facility.

(2) EKM will advise SBN of any pertinent NOTAMs or PIREPs and must inform SBN of all known traffic on or near the airport.

(3) South Bend Arrival Data will turn on the transmitter for the EKM's frequency 119.7.

c. Elkhart IFR Clearance Delivery Procedures:

(1) EKM will assume responsibility for issuing an IFR clearance, in accordance with the JO FAA 7110.65, to any aircraft that will depart the EKM Airport under an IFR flight plan during the hours the EKM NFCT is open.

(a) EKM must contact SBN ATCT AD position to request flight plan information for a specific aircraft. SBN must provide the following information to the EKM Tower:

- Clearance Limit and Route (FRC if needed)
- Requested Altitude
- Departure Frequency (North Freq. 118.55/South 132.05), if needed
- Beacon Code
- ESP and/or EDCT information (if required)

(b) All IFR departures must be assigned an initial altitude of 3000' MSL and to expect their requested altitude within 10 minutes.

d. EKM IFR Departure Procedures

(1) EKM Tower must coordinate a release from the appropriate SBN TRACON Sector when the aircraft is at the runway and ready for departure.

(a) Once EKM calls for an IFR departure release, SBN will assign a heading or fix for the aircraft to fly, aircraft call sign and the word "Released".

(b) EKM is authorized to provide Visual Separation between successive IFR departures and between an IFR Departure and an IFR Arrival in accordance with FAA JO 7110.65.

(c) Must provide applicable IFR separation minima between IFR aircraft within the Class D airspace in accordance with FAA JO 7110.65.

e. EKM VFR Departures into SBN Class C Airspace

(1) EKM must instruct aircraft departing the Elkhart Airport inbound to South Bend International Airport to contact SBN Approach as soon as local traffic permits.

(2) EKM must inform aircraft departing the Elkhart Airport that will transit the SBN Class C Airspace and must provide the aircraft with the appropriate South Bend Approach Control frequency.

f. EKM Airport IFR Arrivals:

(1) SBN must provide EKM with a 5-minute advanced notification with the type of approach being conducted. IFR/VFR aircraft conducting practice approaches will be handled in the same manner and, if needed, SBN will issue missed approach instructions and altitude will be assigned by SBN.

(2) EKM must notify SBN TRACON when an IFR aircraft executes an unplanned missed approach. Unless otherwise coordinated, EKM must instruct the aircraft to execute the missed approach procedure and climb to 3000' MSL.

(3) Unless otherwise coordinated, SBN Approach will switch communications for an arriving VFR/IFR aircraft approximately 6-10 flying miles from the EKM Airport.

(4) SBN must notify EKM if an aircraft was assigned a specific runway at EKM.

(5) EKM is responsible for coordination with the appropriate radar controller if an arrival will affect the sequence or separation due to an untimely delay.

(6) SBN must notify EKM of a "Low Altitude Alert" warning including aircraft identification and position.

(7) EKM must notify SBN of any aircraft that has cancelled their IFR flight plan prior to landing.

(8) SBN will advise EKM of any aircraft who cancels their IFR flight plan after being coordinated.

g. EKM General Hospital Procedures:

(1) Must verbally notify the SBN TRACON when the Elkhart Class D airspace changes to/from IFR conditions.

(2) EKM must notify SBN if the EKM AWOS is out of service and coordinate with SBN AD with the appropriate weather for distribution.

(3) EKM must notify SBN TRACON when they plan to be out of the tower cab for an extended period.

h. Special VFR (SVFR)

(1) Upon request by EKM, SBN may authorize SVFR within the EKM Class D airspace for a specific time. SBN must retain authority to cancel this authorization at any time.

(2) EKM Tower must restrict SVFR aircraft to conduct operations within the EKM Class D airspace at or below 2500' MSL.

5. CONTINGENCY.

a. Refer to the SBN/EKM Contingency LOA

6. ATTACHMENTS:

A. Elkhart Control Tower Emergency Staffing

B. Elkhart General Hospital Helipad RNAV Approach and Departure Procedure

Charles Wiltsie
Air Traffic Manager
South Bend ATCT

Michael Haller
Air Traffic Manager
Elkhart NFCT

ATTACHMENT A

SBN/EKM LOA ELKHART CONTROL TOWER EMERGENCY STAFFING

The following is outlined to ensure staffing of the Elkhart Control Tower during emergencies or unforeseen circumstances.

In the event the Elkhart Tower is not open by 715am local (weekdays) and 0815am (weekends), the OSIC/OCIC on duty at the South Bend Tower must notify the EKM NFCT Manager – Michael Haller Cell- (574) 855-0293. If the EKM Manager is unable to be reached, SBN needs to contact the EKM Airport Manager – Andy Jones – (574) 903-4815.

Attachment
B

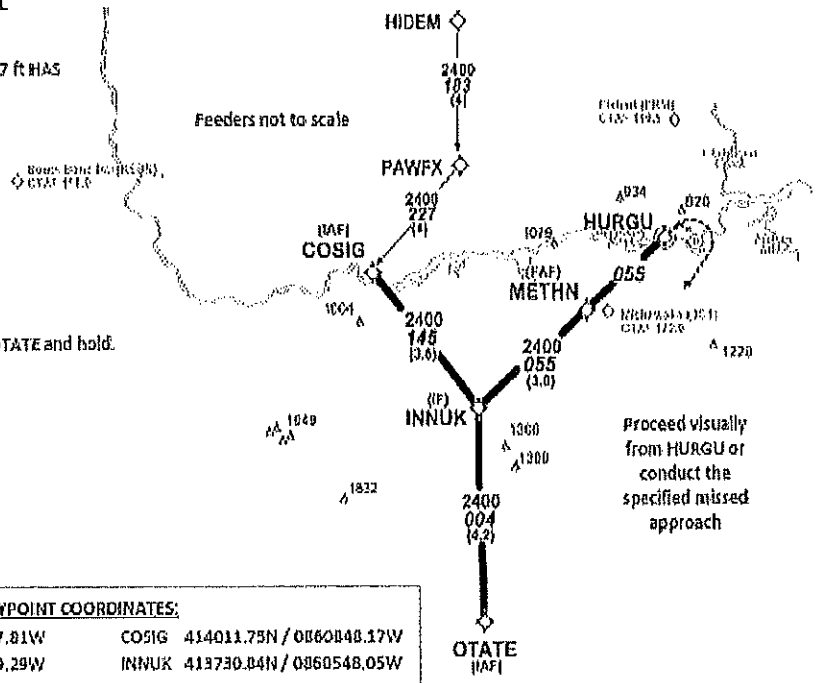
APPROACH PLANVIEW

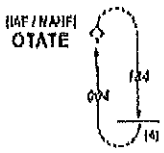
ELKHART GENERAL HOSPITAL
(LOC ID TBD) ELKHART, IN
*Roof top heliport 09 ft AGL; DA 317 ft HAS

APPROACH:
COPTER RNAV (GPS) 06, ORIG

APPROACH MINIMUMS:
LPV DA: 1123 (317*) 3/4
LNAV MDA: 1240 (434) 3/4

MISSED APPROACH:
Climbing right turn to 2800 direct OTATE and hold.





WAYPOINT COORDINATES:

HELIPORT	414045.03N / 0855937.81W	COSIG	414011.75N / 0860848.17W
HURGU	414051.55N / 0860029.29W	INNUK	413730.84N / 0860548.05W
METHN	413926.64N / 0860244.19W	PAWFX	414302.99N / 0860525.92W
OTATE	413317.47N / 0860539.37W		
HIDEM	414652.47N / 0860536.86W		

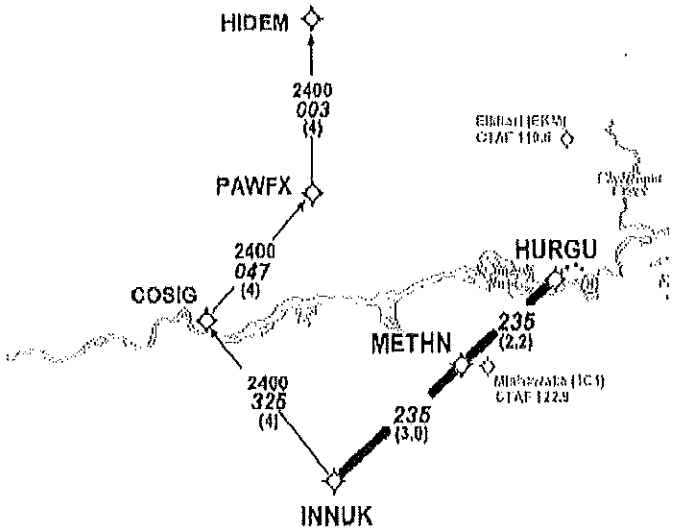
DEPARTURE PLANVIEW

DEPARTURE: INNUK ONE

DP ROUTE DESCRIPTION: Climb to cross HURGU on course 235 at or above 1060. Continue climb on depicted route to cross INNUK at or above 2400, thence....

TRANSITIONS: Transitions not drawn to scale.

HIDEM Transition (INNUK1.HIDEM)



Butler Fairman Seufert
CIVIL ENGINEERS

ELKHART MUNICIPAL AIRPORT
ENGINEER REPORT/AGENDA
August 28, 2024
4:00 p.m.

ACTION ITEMS FOR BOAC MEETING

- Motion to issue the Notice of Award and execute construction contracts for the 10 Unit T-Hangar, Taxilane, Alternate 1 - Mill & resurface taxilane, and Alternate 2 - Remove and replace hangar 39 apron project to New Tech Construction in the amount of $1,667,603.06) to be reimbursed with FAA BIL grant funds at 90% and 5% INDOT grant funds.
- Motion to execute the construction services agreement with BF&S in the amount of $98,000.00 to be reimbursed at 90% FAA BIL grant funds and 5% INDOT grant funds.

ACTIVE GRANT SUMMARY

- AIP 38: Runway 18-36 pavement rehab, Design – Currently 77.10% (90% Federal, 5% State, 5% Local)
- AIP 39: Runway 18-36 pavement rehab, remaining Design, the Taxiway D-4 Feasibility Study, and the design of the 10-unit T-hangar / Taxilane – Currently 95.14% (90% Federal, 5% State, 5% Local)

BF&S PROJECT UPDATES

1. Runway 18-36 Pavement Rehabilitation Design (AIP-38) – 90% Federal
   - Plans are ready for advertising once the FAA establishes the grant schedule for FY2024.
   - The FAA has informed us via INDOT that the project needs to move to FY 2025 due to FAA funding. Between the FAA continuing resolution and projects that were not funded last year many projects had to slide one year.
   - See the revised funding schedule from INDOT and FAA.

2. Runway 18-36 Pavement Rehab Design, Taxiway D4 Feasibility Study, and T-hangar/Taxilane Design (AIP-39) – 90% Federal
   - The Taxiway D-4 study was revised and resubmitted with Alternative 2 as the proposed option which was the declared distance option.
   - We are ready to begin close out of this grant.

3. T-hangar/Taxilane design project
   - Motion to issue the Notice of Award and execute construction contracts for the 8 Unit T-Hangar and Taxilane project to New Tech Construction in the amount of $1,372,677.00 to be reimbursed at 90% FAA BIL grant funds and 5% INDOT grant funds.
   - Motion to execute the construction services agreement with BF&S in the amount of $98,000.00 to be reimbursed at 90% FAA BIL grant funds and 5% INDOT grant funds.

EKM T-Hangar Cash Flow						Project Balance	
					Total Construction - Base plus 10-Unit	$1,527,677.00	
					Professional Services	$98,000.00	
	NPE	BIL	INDOT	Local Match	Total Grants	$1,625,677.00	
2024 Banked available 9/2024	$ -	$ 763,800.00	$ 42,433.33	$ 42,433.33	$ 848,666.67	$777,010.33	
2025 available 9/2025	$ -	*$ 292,000.00*	$ 16,222.22	$ 16,222.22	$ 324,444.44	$452,565.89	
2026 available 9/2026	$ -	*$ 292,000.00*	$ 16,222.22	$ 16,222.22	$ 324,444.44	**$128,121.44**	Loan
	$ -	$ 1,347,800.00	$ 74,877.78	$ 74,877.78	$ 1,497,555.56		

Public Meeting of the Board of Aviation Commissioners:
Wednesday August 28, 2024 at 4:00pm

As always, the public is welcome to attend in-person. Location is:
Elkhart Municipal Airport
1211 CR 6W, Elkhart, IN 46514
1st floor Administration building (blue building just west of the control tower)

For virtual attendance, to view AND participate* in the meeting
Please visit:

https://signin.webex.com/join
Join by meeting number: 2302 787 6868
Meeting password: BOACAugust2024

***In order to participate virtually, you must have your camera on and name displayed.**