



A G E N D A
Tuesday, May 23, 2023
8:00 a.m.

PLEASE NOTE: You are able to join the meeting via Zoom - the invitation to the meeting is attached to the email forwarding this agenda.

1. Approve the minutes of the Regular Meeting held May 9, 2023.
2. Approve the airport vouchers totaling \$263,090.19.
3. Approve individual vouchers:
 - A. GFMEDC - \$5,000.00
2023 Annual Investment
 - B. SUN ELECTRIC - \$5,000.00
Partial Payment Request #12, Parking Lot Exit Plaza.
 - C. FORUM COMMUNICATIONS - \$313.47
Legal advertisement for bids for Long Term Parking Lot Expansion.
 - D. CUMMING GROUP - \$3,630.00
CMAR for passenger terminal expansion.
 - E. MEAD & HUNT - \$7,926.97
Gate #4 boarding bridge.
 - F. MEAD & HUNT - \$562.87
Security Access System Upgrade.
 - G. MEAD & HUNT - \$24,520.28
Glycol sewer forecmain design.
 - H. MEAD & HUNT - \$29,581.50
South General Aviation Area reconstruction soil management plan.
 - I. MEAD & HUNT - \$40,995.00
North General Aviation Area apron expansion.
 - J. MEAD & HUNT - \$4,485.00
Long Term Parking Lot Expansion Design (Final).

AGENDA
MAY 23, 2023
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4. Continue discussion regarding parking structure analysis and options.
5. Receive Change Order from TF Powers – civil contract for Exit Plaza Project for an increase of \$8,200.00.
6. Receive request from Viterra (Gavilon Grain LLC) for a one-year extension to their Eastside Terminal lease.
7. Receive request from American Legion Post #2 for a three-year extension to their Eastside Terminal lease.
8. Receive communication from Fargo Air Museum requesting an extension of the ground lease for hangar at 1651 19th Avenue North.
9. Receive bid tabulation and recommendation of award from Mead & Hunt for the North General Aviation Apron Expansion and the reconstruction of the north and east perimeter roads. (Bid opening Monday, May 22)
10. Receive construction services contract from Mead & Hunt for Long Term Parking Lot Expansion Project (\$63,000).
11. Receive construction services contract from Mead & Hunt for North General Aviation Area Apron Expansion and north and east perimeter road reconstruction, subject to independent fee review. (Construction Services - \$1,088,000, Closeout - \$10,260)
12. Receive update on Small Community Air Service Development Grant application.
13. Receive FAA policy regarding Airport Rates and Charges (9/10/13).
14. Airport construction and security update.

Join Zoom Meeting

<https://us02web.zoom.us/j/428180443?pwd=U1hwMGJmVmdyc1ljUGE1Mkl0VnRBdz09>

Meeting ID: 428 180 443

Password: 2801

Dial (669-900-6833) or (253-215-8782)

If necessary, the Municipal Airport Authority may enter into executive session to consider or discuss closed or confidential records or information pursuant to North Dakota Century Code Sections 44-04-19.1, 44-04-19.2., 44-04-24 and 44-04-26.

Regular Meeting

Tuesday

May 9, 2023

The Regular Meeting of the Municipal Airport Authority of the City of Fargo, ND, was held Tuesday, May 9, 2023, at 8:00 a.m.

Present: Engen, Berg, Kapitan, Ekman, Cosgriff
Absent: None
Others: Bossart, Strand

Chair Cosgriff presiding.

Approved the Minutes of the Regular Meeting Held April 25, 2023:

Berg moved to approve the minutes of the Regular Meeting held April 25, 2023.

Second by Kapitan.

Cosgriff stated there was an item on the agenda for which a motion was voted on and failed. He would like to add that item to the agenda for this meeting as 10a.

On the call of the roll, Engen, Berg, Kapitan, Ekman, Cosgriff.

Motion carried.

Ekman moved to add Item 10a to the agenda to reconsider motion from the April 25 meeting to draft a Request for Proposals for marketing services starting in 2024.

Second by Berg.

On the call of the roll, Engen, Berg, Kapitan, Ekman, Cosgriff voted aye.

Motion carried.

Approved the Airport Vouchers Totaling \$216,254.48:

Engen moved to approve the airport vouchers totaling \$216,254.48.

Second by Kapitan.

On the call of the roll, Engen, Berg, Kapitan, Ekman, Cosgriff voted aye.

Motion carried.

Approved the Individual Vouchers:

Engen moved to approve the individual vouchers:

- A. MEAD & HUNT - \$41,885.00
South General Aviation Area Reconstruction, design/bid.

Approved the Individual Vouchers: (continued)

- B. VOLAIRE AVIATION, INC. - \$1,875.00
Data subscription
- C. VOLAIRE AVIATION, INC. - \$301.04
FAR portion of Allegiant Air meeting.
- D. FLINT GROUP - \$11,531.39
2023 Airport Marketing Program.
- E. SUN ELECTRIC - \$52,227.00
Partial Payment Request #11, Security Access System Upgrade.
- F. TL STROH ARCHITECTS - \$3,346.00
Parking Lot Exit Plaza Project

Second by Kapitan.

On the call of the roll, Engen, Berg, Kapitan, Ekman, Cosgriff voted aye.

Motion carried.

Received Financial Reports:

December 2022, CY2022, January 2023, February 2023, March 2023 financial reports were received and reviewed. Jamie Passanante, Balance Tax & Accounting joined via zoom to answer questions.

Engen moved to accept the financial reports presented.

Second by Kapitan.

After discussion, it was requested the following changes to the financial reports be made:

- Balance sheet should include 2021 actuals
- Add page numbers to the reports for ease in navigating reports
- Dashboard for 561 should just show totals and not include a breakdown of 7004, 7005 and 7007
- Eliminate cents and round to dollars
- Monthly reports should include monthly actual, monthly budget, YTD actual, YTD budget (produce reports starting with January 2023)

On the call of the roll, Engen, Berg, Kapitan, Ekman, Cosgriff voted aye.

Motion carried.

Authorized Renewal of Listing Agreement with CityScapes for Eastside Terminal Building:

The proposed Listing Agreement with CityScapes Development was received and filed without objection.

Engen moved to authorize renewal of listing agreement with CityScapes for Eastside Terminal Building for one year through June 1, 2024.

Second by Berg.

On the call of the roll, Engen, Berg, Kapitan, Ekman, Cosgriff voted aye.

Motion carried.

Authorized Attendance at Alabama Fire College, Trussville, AL, May 8-10, 2023:

Ekman moved to authorize attendance at the Alabama Fire College, Trussville, AL, May 8-10, 2023.

Second by Engen.

On the call of the roll, Engen, Berg, Kapitan, Ekman, Cosgriff voted aye.

Motion carried.

Authorized Attendance at the AAAE Hub Airports Winter Operations & De-Icing Conference, July 16-18, 2023, Dallas, TX:

Kapitan moved to authorize attendance at the AAAE Hub Airports Winter Operations & De-Icing Conference, July 16-18, 2023, Dallas, TX.

Second by Ekman.

On the call of the roll, Engen, Berg, Kapitan, Ekman, Cosgriff voted aye.

Motion carried.

Strand now present.

Received Communication from ND American Legion Auxiliary Requesting Extension to Eastside Terminal Lease:

The communication from Marcy Schmidt, Department Secretary, ND American Legion Auxiliary, dated April 18, 2023, was received and filed without objection.

Engen moved to approve the request from the ND American Legion Auxiliary for a two-year extension to their lease in the Eastside Terminal.

Second by Kapitan.

On the call of the roll, Engen, Berg, Kapitan, Ekman, Cosgriff voted aye.

Motion carried.

Received Communication and Recommendation for CMAR Associated with the Terminal Expansion Project:

The CMAR Services Selection Matrix from Cumming with the results of the reviews by the CMAR selection committee (Rick Engen – MAA, Ben Meland – Enclave, Jeff Klein – Mead & Hunt, Matt Dubbe – Mead & Hunt) interviews held May 3, 2023, was received and filed without objection.

Brandon Halvorson, Project Manager, Mead & Hunt, was recognized via zoom and stated interview of the two CMAR firms submitting proposals (McGough, teamed with TF Powers, and PCL Construction) were held May 3, 2023. He stated both firms submitted very thorough proposals and had excellent presentations by their teams. He stated the scoring was very close, but McGough and TF Powers scored slightly higher.

Halvorson stated that Mead & Hunt is asking the MAA to move forward with negotiations with the top candidate, McGough and TF Powers.

Engen moved to accept the recommendation of the CMAR selection committee and move forward with negotiations.

Second by Kapitan.

On the call of the roll, Engen, Berg, Kapitan, Ekman, Cosgriff voted aye.

Motion carried.

Kapitan moved to appoint Rick Engen and Rick Berg as members of the board to work with Cumming Group, Mead & Hunt, and airport staff on the CMAR negotiation process.

Second by Ekman.

On the call of the roll, Kapitan, Ekman, Cosgriff voted aye.

Engen and Berg abstained.

Motion carried.

Continued Discussion Regarding Walker Consulting Parking Pre-Design Report:

Cosgriff stated the board received the Walker parking garage study at the last meeting. We have reached the point that the board has to decide if this is something we are going to pursue or put the study on the shelf and wait until the next opportunity. The biggest time constraint we have is if we are requesting a one mill levy from the COF dedicated to debt service on a parking garage at the airport. The COF has to certify to the county the maximum amount for their mill levy by the end of May.

Engen stated he feels this study is short on the size of the garage. It should have four floors. The location is blocking everything, and it should be located on the west side taking advantage of blocking the wind from the west. In any modeling the mill levy is important as it shows a commitment from the COF that they and the taxpayers of the community want to participate.

Engen moved we continue the process forward with the understanding the size needs to be dealt with, the mill levy needs to be brought forward to the COF sooner than later, and we have to look at all funding sources.

Second by Berg.

Continued Discussion Regarding Walker Consulting Parking Pre-Design Report: (Continued)

Berg stated for him the fundamental first step is missing. He stated we are landlords. The project has to make money and it has to serve our customers. He stated that is the piece that is missing. He stated we have all of these surveys and studies. He stated there are a lot of parking garages that have been built in Fargo and we can get those construction numbers. He stated the very first thing we need is to see a pro forma. He asked, if we build it, will it pay for itself? He stated until we know where we are at it's hard to go to the COF and ask for funding. He stated the other piece is how we finance it. He stated from his personal perspective what needs to be done ASAP is a pro forma. He stated Walker is an outstanding company and they do a lot of that type of work.

Cosgriff stated he is not sure Walker would be the one to do a pro forma.

Dobberstein stated Liebowitz and Horton did our financial review for the terminal project, and they would be the most up to speed on our financial situation as they have been inputting all of the data for the terminal expansion project. He stated SP Plus will be doing a pro forma on a parking garage whether the MAA asks them to do it or not, as that is what they do.

Engen stated SP Plus provided us with the spreadsheets with data for a parking garage and the COF has those as well.

Berg stated this is not complicated. We could have a local accounting firm do this for us. Here are the things needed:

1. Cost of construction
2. Income that will be received on an annual basis
3. What are the annual expenses?

With that information we will be able to determine if we will be short, which he anticipates we would be, and we would then approach the COF to request mill levy participation. If the COF says no, then we put it on hold until we find interest rates come down. If all of the stars align and it works well then we dig into the timing and all of the other issues.

Cosgriff asked Dobberstein who he felt could respond efficiently, not necessarily the fastest.

Dobberstein stated SP Plus and Walker prepared the last one, so they have a track record together. He stated Liebowitz and Horton will be involved regardless because they want to know all cash flows for the airport. Greg Pierson, SP Plus, already has their team working on a pro forma, but that may be based on a three-story structure vs. four. He stated they used Baker Tilly on the last study for interest rates.

Berg stated all we need to know is the revenue forecast. He stated we know the costs are going to change and the interest rates are going to change. We don't need them to give us a cost estimate. We just need to look at what we need to charge for rates and what kind of revenue we can expect.

Dobberstein stated they will want assumptions, such as the daily rate, which is determined by the MAA. We already know forecasted enplanements so that data is available. These are the same discussions they had in Sioux Falls.

Berg stated our consumers will ultimately set the rates. If we set them too high, no one will use it. If we set them too low, we are leaving money on the table.

Continued Discussion Regarding Walker Consulting Parking Pre-Design Report: (Continued)

Dobberstein stated the revenue would be a net revenue amount, as we are covering up some existing spaces for which we receive revenue now.

Engen withdrew his original motion.

Berg withdrew his second.

Berg stated if we want to move quickly on this, we would need a regional or national firm to help with the revenue forecast. The second would be a local accounting person or firm to put together a pro forma for us.

Cosgriff stated our purchasing policy would allow us to do this without advertising for bids.

Dobberstein stated EideBailly did the pro forma for Sioux Falls.

Engen stated we and the COF have the prior pro forma spreadsheets that were used to come up with previous numbers. We know there have been shortfalls in all of the previous studies. He asked Commissioner Strand if it is out of line for the MAA to ask the COF for a mill specifically dedicated to a parking garage.

Commissioner Strand stated his sense is that the request is appropriate and is expected, but there is the question of a sunset, as well as cost sharing and revenue sharing.

Cosgriff stated we are in an awkward situation as we are trying to negotiate what we don't know yet.

Engen stated he has been on this board for four years and every time we have studied a parking garage there has been a shortfall in any iteration of the request. He stated we are going to need a mill, with a sunset, specifically dedicated to a parking garage. That request is not out of line.

Cosgriff stated he would like the City's input on how they would like to participate.

Engen asked what the preconstruction and upfront costs for this would be for a \$40 million project.

Dobberstein stated architectural fees would be 11% (\$4.4 million) to get to the point where we would open bids.

Berg stated I think we could put a pro forma together in two weeks and then make our request to the COF from there. He stated that will not be anything hard, but it would show any need for additional funding from the COF.

The City Commission meets May 16 and May 30.

Dobberstein stated he could engage Chad Flannagan, EideBailly, and see what resources they have available, for a cost not to exceed \$5,000. He stated they can engage Walker and SP Plus to get the data they have.

Strand stated the mayor's recommendation would be to place the request on the City's May 30 agenda.

Engen moved that we work to create a pro forma for the COF in request of the use of our mill levy privileges to be directed specifically for a parking ramp.

Second by Berg.

Berg volunteered to help work through that process.

Continued Discussion Regarding Walker Consulting Parking Pre-Design Report: (Continued)

Engen stated we just need to go back to our original spreadsheets and update the information.

Dobberstein stated he will engage EideBailly to partner with SP Plus and Walker to develop a pro forma.

Engen stated from prior conversations, the four main items are:

- Space counts
- Construction costs
- Parking rates
- Cost of money

Rich Slagle, McGough, was recognized and stated he would be willing to validate numbers in the next couple of weeks as they do a lot of parking ramps.

The next MAA meeting is Tuesday, May 23 and the MAA/COF joint parking committee should meet again on Wednesday, May 24.

Cosgriff called for a vote on the motion, Engen, Berg, Kapitan, Ekman, Cosgriff voted aye. Motion carried.

Continued Discussion on Marketing and Advertising Program:

This item was added to the agenda.

Cosgriff stated the board voted on a motion at the last meeting to draft a Request for Proposals for marketing services starting in 2024 and the motion failed. He stated he does not think it is appropriate to leave it at that point.

Ekman suggested we have a marketing consultant review our current marketing program.

After discussion, Ekman moved the MAA identify two airport marketing firms outside of this market to help with strategy and the metrics of our marketing program.

Second by Berg.

On the call of the roll, Engen, Berg, Kapitan, Ekman, Cosgriff voted aye.

Motion carried.

Received Communication from FAA Regarding Implementation of Safety Management System, Policy Under Title 14, CFR 139:

Dobberstein stated this is final adoption and notice by our FAA Certification Inspector of the requirement for airports to implement safety management systems for airports. He stated we will likely engage a consultant to assist with the preparation of this system, which is what most airports will be doing. He stated this is just a matter of information at this point.

Reviewed FAA Grant Assurances Policy:

Board members were provided with the FAA Grant Assurances Policy for review.

Airport Construction and Security Update:

Terry Stroh, TL Stroh Architects, was recognized via zoom and gave an update on the Parking Lot Exit Plaza. The only items remaining include the metal for the roof cap and the landscaping. They are also still looking at some type of curb or guardrail for protection of the building from vehicles.

Jeff Klein, Mead & Hunt, was recognized and gave an update on project bid openings. We will be meeting with Border States Paving on the final punchlist items for the East Economy Parking Lot. The security system access upgrade is still waiting for the arrival of materials.

The meeting of the Municipal Airport Authority was adjourned until the next Regular Meeting to be held Tuesday, May 23, 2023.

Time at adjournment was 10:10 a.m.

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VOUCHERS FOR AUTHORITY APPROVAL - MAY 23, 2023		
ACME TOOLS	AIRFIELD MAINT SUPPLIES - STIHL TRIMMER, ATTACHMENTS, ETC.	\$1,221.85
4 SEASONS PAVEMENT REPAIR PRODUCTS	POTHOLE FILLER - AIRFIELD	\$3,226.92
ACME TOOLS	SHOP TOOLS - BAND SAW BLADE	\$21.97
AIRSIDE SOLUTIONS, INC.	AIRFIELD LIGHTING	\$9,441.05
AIRSIDE SOLUTIONS, INC.	AIRFIELD LIGTHING	\$224.02
AIRSIDE SOLUTIONS, INC.	AIRFIELD LIGHTING	\$458.39
AIRSIDE SOLUTIONS, INC.	AIRFIELD	\$6,070.61
ALLIED UNIVERSAL SECURITY SERVICES	SECURITY GUARD SERVICE APRIL 28-MAY 4	\$3,785.39
ALLIED UNIVERSAL SECURITY SERVICES	SECURITY GUARD SERVICE APRIL 21-27	\$3,787.06
AMERICAN ASSOC OF AIRPORT EXECUTIVES	DIGICAST TRAINING (12/1/22 - 11/30/23)	\$4,389.00
A-OX WELDING SUPPLY	SUPPLIES - ARFF SATION	\$74.25
ARAMARK	LINEN SERVICE/UNIFORMS - APRIL	\$1,388.00
BALANCE TAX & ACCOUNTING	ACCOUNTING SERVICES - APRIL	\$2,350.00
CITY OF FARGO	UTILITIES	\$4,542.46
CITY OF FARGO	POLICE HOURS - APRIL	\$29,135.39
CITY OF FARGO	STORM SEWER	\$459.17
COLE PAPERS, INC.	JANITORIAL SUPPLIES - W. TERMINAL	\$35.85
COLE PAPERS, INC.	JANITORIAL SUPPLIES - W. TERMINAL	\$1,414.34
COLE PAPERS, INC.	JANITORIAL SUPPLIES - W. TERMINAL	\$1,626.21
COLE PAPERS, INC.	JANITORIAL SUPPLIES - W. TERMINAL	\$180.73
COLE PAPERS, INC.	JANITORIAL SUPPLIES - W. TERMINAL	\$251.02
COLE PAPERS, INC.	JANITORIAL SUPPLIES - W. TERMINAL	\$24.23
CONSOLIDATED COMMUNICATIONS	INTERNET SERVICE - MAINT SHOP	\$379.00
CONSOLIDATED COMMUNICATIONS	INTERNET SERVICE - SP PLUS - PARKING MGMT FEE	\$229.00
CONSOLIDATED COMMUNICATIONS	INTERNET SERVICE - ARFF STATION	\$227.99
CONSOLIDATED COMMUNICATIONS	INTERNET SERVICE - W. TERMINAL	\$450.07
CORE & MAIN	MATERIALS FOR SEWER MANHOLES - AIRFIELD	\$180.06
CROSS MATCH TECHNOLOGIES	TECH SERVICES - FINGERPRINTING SYSTEM	\$864.00
CURB MOBILITY (CLINT GARNETT)	TAXI - ALLEGIANT CONF, APRIL 17-19, LAS VEGAS	\$32.51
CURB MOBILITY (WESTERN CAB)	TAXI - ALLEGIANT CONF, APRIL 17-19, LAS VEGAS	\$32.51
CURT'S LOCK AND KEY SERVICE	DOOR LEVER - MAINT SHOP	\$363.00
DACOTAH PAPER CO.	JANITORIAL SUPPLIES - W. TERMINAL	\$740.45
DACOTAH PAPER CO.	JANITORIAL SUPPLIES - W. TERMINAL	\$143.44
DACOTAH PAPER CO.	JANITORIAL SUPPLIES - W. TERMINAL	\$963.23
DACOTAH PAPER CO.	JANITORIAL SUPPLIES - W. TERMINAL	\$416.68
DIGIARTY	SOFTWARE FOR COMPUTER IN BOARDROOM	\$20.43
EASY BADGES	(200) SECURITY ACCESS CARDS	\$678.00
EBAY	AC POWER CHARGER - FIDS MONITOR - W. TERMINAL	\$26.95
FAMILY FARE	BOTTLED WATER - BOARDROOM	\$8.38
FARGO GLASS AND PAINT CO.	REPAIRS TO AUTOMATIC DOORS - W. TERMINAL	\$1,603.12
FARGO TIRE SERVICE	TIRES - EQUIP #3, #9	\$2,228.80
FIRST NATION ELECTRIC	ELECTRICAL REPAIRS - W. TERMINAL	\$620.00
FIRST NATION ELECTRIC	ELECTRICAL REPAIRS - PARKING LOT EXIT SIGN	\$120.00
FIRST NATION ELECTRIC	ELECTRICAL REPAIRS - SRE BUILDING	\$5,342.96
FIRST NATION ELECTRIC	ELECTRICAL REPAIRS - ENTRANCE SIGN	\$655.79
FIRST NATION ELECTRIC	ELECTRICAL REPAIRS - E. TERMINAL	\$895.60
FLIGHT AWARE	FBO TOOLBOX (MONTHLY)	\$110.00
FMWF CHAMBER	VOICES OF VISION EVENT	\$65.00
GH JANITORIAL SERVICE	CLEANING SERVICES - TSA OFFICES, W. TERMINAL - APRIL	\$440.00
GILLUND ENTERPRISES	SHOP SUPPLIES - BRAKE PARTS CLEANER	\$270.00
GRAINGER	ROLLER CHAIN FOR JETWAY #4	\$89.57
GRAINGER	PARTS FOR EQUIP #59	\$241.60
GRAINGER	LED LIGHT BAR POWER CABLE - W. TERMINAL	\$43.52
GRAINGER	LIGHTING SUPPLIES - BALLASTS - W. TERMINAL	\$296.40
GRAINGER	SHOP TOOLS - SCREWDRIVER SET	\$23.00
HAWKINS, INC.	AQUA HAWK KA-50 DE-ICER	\$24,781.44
HOLMEN, ANDREW	TRAVEL - SNOW SYMPOSIUM, BUFFALO, NY, APRIL 21-26	\$292.00
HOLMEN, ANDREW	TRAVEL - AIRFIELD LIGHTING SYMP, MAY 1-5, COLUMBUS, OH	\$204.20
HUBER ELECTRIC MOTOR	REPAIRED MOTOR - JETWAY #4	\$892.00
HYATT REGENCY	SNOW SYMPOSIUM - APRIL 21-25, BUFFALO, NY (HOLMEN)	\$1,177.31
ICE COBOTICS	ROBOTIC VACUUM SUBSCRIPTION - APRIL - W. TERMINAL	\$549.00
ID ZONE	ID CARD HOLDERS	\$299.96

INLAND TRUCK PARTS & SERVICE	EQUIP PART - #19	\$475.49
INTERSTATE ALL BATTERY CENTER	BATTERIES FOR EQUIP #24	\$285.90
INTERSTATE ALL BATTERY CENTER	BATTERIES - SHOP	\$21.00
INTERSTATE POWER SYSTEMS	PREVENTATIVE MAINT - BAG BELT SYSTEM - W. TERMINAL	\$737.50
JET-WAY MULTIPLE SERVICES, INC.	JET SANITARY SEWER - SOUTH GA (SPECTRUM HANGAR)	\$605.00
LITTLE FALLS MACHINE, INC	TRIP EDGE REMOVAL KIT - EQUIP #40	\$720.00
LOWES	PARTS FOR TRAILER - #59	\$33.66
LOWE'S	ARFF STATION SUPPLIES - EQUIP OIL	\$43.92
LUMACURVE AIRFIELD SIGNS	AIRFIELD LIGHTING	\$3,393.60
LUMACURVE AIRFIELD SIGNS	AIRFIELD LIGHTING	\$25,316.00
LUTHER FAMILY FORD	EQUIP ART - #5	\$18.91
LUTHER FAMILY FORD	REFUND FOR RETURNED PART - EQUIP #5	-\$110.55
LUTHER FAMILY FORD	EQUIP PARTS (MIRRORS)	\$440.00
LUTHER FAMILY FORD	EQUIPMENT PART - SWITCH	\$110.55
M & J AUTO PARTS	EQUIP PARTS - #77	\$12.66
M & J AUTO PARTS	PARTS FOR EQUIP #9	\$94.39
M & J AUTO PARTS	EQUIP PARTS - #5	\$360.42
M & J AUTO PARTS	EQUIP PARTS - #77	\$267.77
M & J AUTO PARTS	EQUIP PARTS - #77	\$29.79
M & J AUTO PARTS	REFUND FOR RETURNED PART - EQUIP #77	-\$267.77
MACQUEEN EMERGENCY GROUP	PARTS FOR EQUIP #3, #20	\$1,500.33
MACQUEEN EMERGENCY GROUP	PARTS FOR ARFF TRUCKS	\$3,439.93
ME BULBS	LIGHTING SUPPLIES - W. TERMINAL	\$1,112.53
MIDWEST COMMUNICATIONS	TELEPHONE SERVICE - APRIL	\$231.26
MIDWEST PEST CONTROL	PEST CONTROL (4) BUILDINGS	\$170.00
MJ DAL SIN CO.	ROOF REPAIRS - E. TERMINAL	\$523.59
ND ONE CALL	UTILITY LOCATE TICKETS - MARCH 2023	\$21.58
NELCO FIRST AID, INC.	FIRST AID SUPPLIES - W. TERMINAL	\$205.13
NORTHERN ENGINE & SUPPLY CO.	EQUIP PARTS - #12	\$86.16
NORTHERN ENGINE & SUPPLY CO.	EQUIP PARTS - #9	\$122.31
NORTHERN ENGINE & SUPPLY CO.	EQUIP PARTS - SCHULTE SNOWBLOWER	\$122.30
NORTHWEST TIRE INC.	TIRE REPLACEMENT - EQUIP #9	\$687.03
OFFICE DEPOT	SHOP OFFICE SUPPLIES	\$21.16
OTIS ELEVATOR	SERVICE CALL - ELEVATOR ACCESS FOR PIT ACCESS	\$600.00
PARK MGM	ALLEGIAN AIR CONF, APRIL 17-19, 2023, LAS VEGAS, NV	\$471.67
PARSONS ELECTRIC	UTILITY LOCATES	\$140.00
PRO RESOURCES CORPORATION	PAYROLL, TAXES, FEES MAY 1-14, 2023	\$87,045.85
PRO-MARK SUPPLY	UTILITY MARKERS - AIRFIELD	\$345.00
RIGELS	DISHWASHER REPLACEMENT - ARFF STATION	\$837.95
SAM'S CLUB	COFFEE CUPS	\$16.10
SANFORD HEALTH EQUIP	WALKING BOOT COVER - TARAN REIERSON INJURY	\$17.19
SANFORD HEALTH OCCMED	ARFF STAFF ANNUAL PHYSICALS	\$803.00
SANFORD HEALTH OCCMED	PRE-EMPLOYMENT SCREENING - REIERSON, SAMUELSON	\$530.00
SHOPLET.COM	OFFICE SUPPLIES - LABEL TAPE	\$53.98
SKALICKY'S AUTO REPAIR	REPAIRS TO EQUIP #45 (BODY DAMAGE)	\$3,127.80
SKALICKY'S AUTO REPAIR	REPAIRS TO EQUIP #45 - TIRES	\$1,033.58
SKALICKY'S AUTO REPAIR	REPAIRS - EQUIP #77	\$68.84
SKALICKY'S AUTO REPAIR	REPAIRS - EQUIP #5	\$663.82
SUMMIT FIRE PROTECTION	FIRE ALARM MONITORING - SRE BUILDING	\$491.00
THE UPS STORE	SHIPPING - FLIGHT RADAR 24 BOX	\$52.96
T-MOBILE	AIRFIELD WIRELESS CARD, 24HR OPS CELL, ARFF CELL	\$73.20
TRANSPORTATION SECURITY CLEARINGHOUSE	BACKGROUND CHECKS	\$675.00
ULINE	DOUBLE SCISSOR LIFT TABLE - MAINT SHOP	\$1,252.53
UNITED ROTARY BRUSH	WAFERS, SPACERS	\$2,838.30
ZOOM VIDEO COMMUNICATIONS	ZOOM ONE PRO MONTHLY, APRIL 30-MAY 29	\$15.99
		\$263,090.19



BUILDING YOUR LEGACY
TF Powers
CONSTRUCTION CO.

5

CONSTRUCTION COST ESTIMATE BREAKDOWN

CONTRACTOR: TF Powers Construction
PROJECT TITLE: HIA Exit Booth - Civil
PROJECT NO: 1114

ADDRESS: 910 6th Ave N.
Fargo, ND 58102
COST PROP. # 2

Line No.	Item	Unit of Meas	Quan	Material Cost		Labor Costs			Other Direct Costs	Line Total
				Unit Cost	Total	Labor Hours	Average Rate	Total		
1	Additional Grading									
2	(see attached)									
3										
4										
5										
6	Earthwork	LS	1		0	0	65.00	0	8,200	8,200
7										
8										
9										
10										
11										
12										
13										
14										
15										
16										
17										
18										
19	**NOTE**									
20	*doesn't include the additional landscaping costs that will be necessary.									
21										
22										
23										
24										
25										
26										
27										
	Subtotal				0			0	8,200	8,200

TOTAL MATERIAL COSTS		\$	0
TOTAL LABOR COSTS		\$	0
TOTAL OTHER DIRECT COSTS		\$	8,200
TOTAL DIRECT COSTS		\$	8,200
OVERHEAD _____%	10.0%	\$	820
SUBTOTAL		\$	9,020
PROFIT _____%	5.0%	\$	451
SUBTOTAL		\$	9,471
BOND _____%	1.5%	\$	142
TOTAL		\$	9,613

DATE: 11-May-22

FIRM NAME: TF Powers Construction Co.


BY: Gretchen Lopez

TITLE: Project Manager

Grading out ditch



kdschipper@aol.com
To: Gretchen Lopez

 Follow up. Start by Monday, May 08, 2023. Due by Monday, May 08, 2023.

Good morning Gretchen,

We have been requested to haul in black dirt to fill in and regrade the ditch where we installed the waterline.

We talked with Shawn with Hector Airport about this project and obtaining the black dirt from a stockpile site on their property.

We will truck in black dirt as required to fill in ditch and grading things out so water no longer holds in this area.

Lump sum price: \$8,200.00

Shaun Schipper
Earth Developers Inc.



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1801 23rd Ave North, Room 214
Fargo, ND. 58102

May 15, 2023

Fargo Municipal Airport Authority
PO Box 2845
Fargo, ND. 58108

Mr. Shawn Dobberstein, Executive Director

I am requesting an extension of our current lease agreement for another one-year term (August 1, 2023 through July 31, 2024). If you have any questions, please contact me at 701-532-1435 or stuart.beckma@viterra.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stuart D. Beckman".

Stuart D. Beckman
Safety Director – US/Mexico Region

shawn

①

From: Bill Owens <william.bill.owens@gmail.com>
Sent: Tuesday, May 16, 2023 8:05 PM
To: Joan Stading
Cc: shawn
Subject: Re: Invoice 2331 from Municipal Airport Authority of the City of Fargo, North Dakota
Attachments: ~WRD0000.jpg

Hi, Joan

The Post 2 American Legion executive committee met and we have motioned and approved to renew the lease for a 3 year term.

Please let me know if you have any questions.

Thanks

Bill Owens
Finance Officer
Gilbert C Grafton Post 2 American Legion

On Wed, May 10, 2023, 1:35 PM Joan Stading <Joan@fargoairport.com> wrote:

Bill

I don't have a draft lease at this time, as we usually wait until we receive a request from the tenant before our attorney would draft that.

I am attaching a copy of the current lease extension. The standard 3% per year escalator would apply.

The only other change in the lease will be language prohibiting the mining of cryptocurrency in the building (something we are adding to all leases).

Please send us a request for an extension, including the number of years you are requesting.

Let us know if you have any questions.

Thank you.

Joan Stading

MUNICIPAL AIRPORT AUTHORITY

PO BOX 2845

FARGO, ND 58108

701-241-1501

www.fargoairport.com

Warning Confidential Information. This email and any attachments may contain confidential or proprietary information. It is intended only for the individual(s) named. If you are not a named addressee, you should not disseminate, distribute or copy this email. Please notify the sender immediately by email if you have received this email by mistake and delete this email from your system. Also, if you are not the intended recipient, you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

From: Bill Owens <william.bill.owens@gmail.com>

Sent: Wednesday, May 10, 2023 1:22 PM

To: Joan Stading <Joan@fargoairport.com>

Subject: Re: Invoice 2331 from Municipal Airport Authority of the City of Fargo, North Dakota

Received. Thank you.

I am the new finance officer, so a lot to catch up on!

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May 17, 2023

Hector International
Municipal Airport Authority
PO BOX 2845
Fargo, ND 58108

Municipal Airport Authority,

The Fargo Air Museum would like to extend our ground lease on the Carousel Hangar located at 1651 19th Ave N, Fargo ND. We are requesting a one year extension, with our commitment to replace or repaint the roof of the hangar by the end of this extension. We would request to go back to a 4-5 year extension once our repair commitment is complete.

Please let me know if you have any questions.

Sincerely yours,

Ryan J Thayer



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May 17, 2023

Shawn A. Dobberstein, AAE
Municipal Airport Authority
PO Box 2845
Fargo, North Dakota 58108

Subject: Long Term Parking Lot Expansion – Construction Services

Dear Shawn A. Dobberstein, AAE:

Mead & Hunt, Inc. (Mead & Hunt) is pleased to submit this proposal to provide construction services for the above-referenced project.

Project Understanding

See attached Exhibit B

Mead & Hunt's Scope of Services

After receipt of authorization to proceed, Mead & Hunt shall: See attached Exhibit B

Responsibilities of the Municipal Airport Authority

Our Scope of Services and Compensation are based on the Municipal Airport Authority (MAA) performing or providing the following:

- A designated representative with complete authority to transmit instructions and information, receive information, interpret policy, and define decisions.
- Access to the project site.
- Available data, drawings, and information related to the project.
- Review of (draft-final plans/specs/reports, etc.) within (weeks/months) of receipt.
- Protection of Mead & Hunt-supplied digital information or data, if any, from contamination, misuse, or changes.

Work Not Included in the Scope of Services

The following items are excluded from this agreement and will be provided by the MAA or provided by Mead & Hunt, Inc. as an Additional Service only as authorized by the MAA:

- Construction Services beyond the assumed 30 working days for construction

Project Schedule

- Construction Services to occur over 30 working days from the first day of construction.

Compensation

Construction Services - For Construction Services as described within Exhibit B, Consultant shall receive a reimbursement rate based on actual costs, including overhead and profit. For services of the Consultant's staff engaged directly on the project, the compensation will be an amount equal to the Consultant's direct labor cost times a factor of 3.1984 (Factor = $(1 + \text{OH Rate of } 1.7812) \times \text{fixed fee (15\%)} = 3.1984$). In addition, Consultant shall receive reimbursable expenses not included in the Consultant's overhead rate plus a fixed fee of 15%. The maximum cost of services is \$63,000.

Authorization

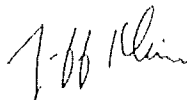
The Scope of Services and Compensation stated in this proposal are valid for a period of thirty (30) days from date of submission. If authorization to proceed is not received during this period, this proposal may be withdrawn or modified by Mead & Hunt.

Signatures of authorized representatives of MAA and Mead & Hunt shall convert this proposal to an Agreement between the two parties, and receipt of one signed copy shall be considered authorization to proceed with the work described in the Scope of Services. All services shall be performed in accordance with the *General Terms and Conditions for Engineering, Architectural, or Consulting Services* which is attached hereto and made part of this Agreement and labeled as Exhibit A.

We appreciate the opportunity to submit this proposal to MAA.

Respectfully submitted,

MEAD & HUNT, INC.



Jeff Klein, PE
Project Manager

Attachment

Approved by: MEAD & HUNT, INC.

By: _____

Name: _____

Title: _____

Date: _____

Accepted by: the Municipal Airport Authority

By: _____

Name: _____

Title: _____

*The above person is authorized to sign for Client
and bind the Client to the terms hereof.*

Date: _____

Exhibit A. General Terms and Conditions

Mead & Hunt, Inc.
General Terms and Conditions ("General Terms") for Engineering,
Architectural, or Consulting Services
North Dakota

1. Client and Mead & Hunt, Inc. hereby mutually agree to the terms and conditions contracted in this Agreement for Engineering, Architectural or Consulting Services, including these General Terms and Conditions for Engineering, Architectural, or Consulting Services, and any and all documents incorporated by reference into this Agreement (together, this "Agreement"). This Agreement constitutes this Agreement between Client and Mead & Hunt, Inc. as pursuant to which Services are to be performed by Mead & Hunt, Inc. Receipt by Client of the executed Agreement shall be considered written authorization for Mead & Hunt, Inc. to proceed. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in this Agreement.
2. Mead & Hunt, Inc. will bill Client monthly, according to the payment method set forth in this Agreement, with net payment due within thirty (30) days. Past due balances shall be subject to an interest charge at a rate of 1% per month. In addition, Mead & Hunt, Inc. may, after giving ten (10) days' written notice, suspend the Services under this Agreement until Client has paid in full all amounts due it for services rendered and expenses incurred, including the interest charge on past due invoices. The fees or rates stated in this Agreement does not include any applicable state and local sales or use taxes or gross receipts taxes; such taxes shall be the sole responsibility of Client.
3. The fees, Services and Scope of Services stated in this Agreement constitute an estimate of the fees and tasks required to perform the Services. Should the Project involve conceptual or process development services, Services often cannot be fully defined during the initial planning stages. As the Project progresses, facts uncovered may also reveal a change in direction which may alter the Scope of Services. If Client requests modifications or changes in the Scope of Services related to the Project, the time of performance of the Services by Mead & Hunt, Inc. and the fees associated therewith shall be revised and accepted by both parties in writing before Mead & Hunt, Inc. undertakes any additional work beyond the Scope of Services. Mead & Hunt, Inc. is not acting as a Municipal Advisor as defined by the Dodd Frank Act.
4. To the fullest extent permitted by law, Client shall indemnify and hold harmless Mead & Hunt, Inc. and its officers, agents, representatives and employees from and against liabilities, claims, losses, damages, expenses, including but not limited to attorney's fees and disbursements, arising out of or resulting from (i) delays caused in whole or in part by Client's interference with Mead & Hunt, Inc.'s ability to provide the Services, including, but not limited to, Client's failure to provide facilities or information specified in this Agreement, (ii) inaccuracies in documents or other information provided by Client to Mead & Hunt, Inc., or (iii) failure to perform under this Agreement, caused by or that arise in whole or in part by any negligent acts, errors or omissions of Client. Mead & Hunt, Inc. reserves the right to renegotiate this Agreement due to any unforeseen delays caused by events beyond Mead & Hunt, Inc.'s control, such as Force Majeure events as described in Section 26 or other events beyond Mead & Hunt, Inc.'s control, like funding for the Project. If any word or clause of this Agreement is determined not to be in compliance with North Dakota Statutes §9-08 -02.1, including any amendments thereto, it shall be stricken and replaced and the remaining word, clause and provisions shall remain in full force and effect.
5. Client agrees to provide such legal, accounting and insurance counseling services as may be required for the Project.
6. Mead & Hunt, Inc. will maintain insurance coverage for worker's compensation, general liability, automobile liability, and professional liability. Mead & Hunt, Inc. will provide information as to specific limits upon written request. If Client requires coverages or limits in addition to those that Mead & Hunt, Inc. currently has in effect as of the date of this Agreement, premiums for additional insurance shall be paid by Client.
7. **MEAD & HUNT, INC. (INCLUDING ITS CURRENT AND FORMER EMPLOYEES, OFFICERS, DIRECTORS OR SHAREHOLDERS) AND OWNER ARE NOT LIABLE, IN CONTRACT OR TORT OR OTHERWISE, FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR LIQUIDATED DAMAGES INCLUDING SPECIFICALLY, BUT WITHOUT LIMITATION, LOSS OF PROFIT OR REVENUE, LOSS OF CAPITAL, DELAY DAMAGES, LOSS OF GOODWILL, CLAIM OF THIRD PARTIES, OR SIMILAR DAMAGES ("DAMAGES"). NOTWITHSTANDING THE FOREGOING, CLIENT SHALL BE LIABLE HEREUNDER TO THE EXTENT THAT MEAD & HUNT, INC. IS HELD LIABLE BY ITS SUBCONSULTANTS OR A THIRD-PARTY FOR DAMAGES CAUSED BY OWNER OR ITS EMPLOYEES, INDEPENDENT CONTRACTORS, OR AGENTS. IN NO EVENT SHALL MEAD & HUNT, INC.'S OR ITS SUBCONSULTANTS' LIABILITY ARISING OUT OF OR RELATED TO ANY BREACH OF THIS AGREEMENT EXCEED THE AMOUNT OF FEES BILLED BY MEAD & HUNT, INC. TO CLIENT FOR SERVICES PERFORMED PURSUANT TO THIS AGREEMENT.**
8. Mead & Hunt, Inc.'s (including its current or former employees, officers, directors, or shareholders) liability to Client for any damages shall not exceed the amount of fees billed by Mead & Hunt, Inc. to Client for services performed pursuant to this Agreement within the last twelve (12) months from the date that the last invoice was submitted to Client by Mead & Hunt, Inc., regardless as to whether Client paid such invoice.
9. Mead & Hunt, Inc. and Client agree that the ultimate liability for contaminants or pollutants regardless of its source, and for the actual, alleged, or threatened discharge, dispersal, release, or escape of pollutants, mycotoxins, spores, smoke, vapors, soot, fumes, mold, acids, alkalis, toxic chemicals, mildew, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, buildings, the atmosphere, or body of water shall remain with Client; and the responsibility and/or liability for any of the foregoing and for the ownership and maintenance of any toxic, hazardous, or asbestos materials relating to the project shall remain with Client.
10. Client and Mead & Hunt, Inc. shall not, during the term of this Agreement or after the termination of this Agreement for a period of one (1) year disclose any Confidential Information to any person or entity, or use any Confidential Information for the benefit of Client or Mead & Hunt, Inc., as the case may be, or any other person or entity, except

with the prior written consent of Mead & Hunt, Inc. or Client, as the case may be, or as required by law. The term "Confidential Information" means information marked or designated by Mead & Hunt, Inc. or Client as confidential. Confidential Information includes, but is not limited to, the purpose, duration, or extent of studies, surveys, and tests conducted by Mead & Hunt, Inc. or its subconsultants throughout the duration of this Agreement, ideas, specifications, techniques, models, data, programs, documentation, processes, know-how, and financial and technical information. Notwithstanding the foregoing, Confidential Information shall not include information or material that (i) is publicly available or becomes publicly available through no action or fault of receiving party, (ii) was already in receiving party's possession or known to receiving party prior to being disclosed or provided to receiving party by or on behalf of disclosing party, provided that the source of information or material was not bound by a contractual, legal or fiduciary obligation of confidentiality to disclosing party or any other party with respect thereto, (iii) was or is obtained by receiving party from a third party, provided that such third party was not bound by a contractual, legal or fiduciary obligation of confidentiality to disclosing party or any other party with respect to such information or material, or (iv) is independently developed by receiving party without reference to the Confidential Information. Except as required by law or court order, the provisions of this clause shall apply to Client's communications with members of the public, governmental agencies, and all other individuals or organizations. The restrictions set forth in this section shall remain in full force and effect (a) with respect to the Confidential Information, for a period of six (6) years following the earlier of the termination of this Agreement or the completion of services under this Agreement; and (b) with respect to the Trade Secrets, which shall have the meaning set forth under applicable law, until the Trade Secrets no longer retain their status or qualify as trade secrets under applicable law.

11. Mead & Hunt, Inc. shall retain ownership and property interest in all documents prepared or furnished by Mead & Hunt, Inc. and its independent professional associates and consultants, in connection with the Project, which include, but are not limited to, models, plans, sketches, designs, drawings details, specifications, all data and image files, both electronic and hard copy, as applicable (hereinafter "files"), and such files are part of Mead & Hunt, Inc.'s Instruments of Services. Mead & Hunt, Inc. may release files to any other party involved in the Project; and if such release is not provided for in the Scope of Services, fees may be adjusted before the documents are prepared for electronic submittal. Client is not permitted to use Mead & Hunt, Inc. files for any other project without express written permission from Mead & Hunt, Inc., and Mead & Hunt, Inc. may request Client to return or destroy such files at any time. Mead & Hunt, Inc. makes no representation as to compatibility of electronic files with Client's hardware or software and assumes no liability with respect to any use or reuse of the files by Client. Mead & Hunt, Inc. will have no liability to Client or any third party for any material in or transmitted with the files, including without limitations any virus, worm, trap door, back door, tracker, or other illicit code or program that may result from such use or reuse of files. Client hereby indemnifies and holds harmless Mead & Hunt, Inc. against any and all claims related to any use or reuse of the files. Differences may exist between these electronic files and corresponding hard-copy documents prepared by Mead & Hunt, Inc. and the electronic files, the signed or sealed hard-copy documents shall govern. Because information presented on the electronic files can be modified, unintentionally or otherwise, Mead & Hunt, Inc. reserves the right to remove all indicia of ownership and/or involvement from each electronic display. MEAD & HUNT, INC. PROVIDES THE FILES "AS IS," "WITH ALL FAULTS" AND "AS AVAILABLE." TO THE MAXIMUM EXTENT

PERMITTED BY APPLICABLE LAW. UNDER NO CIRCUMSTANCES SHALL DELIVERY OF THE FILES FOR USE OR REUSE BE DEEMED AS SALE BY MEAD & HUNT, INC. AND MEAD & HUNT, INC. MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR ANY PARTICULAR PURPOSE. IN NO EVENT SHALL MEAD & HUNT, INC. BE LIABLE FOR ANY LOSS OF PROFIT, DIRECT OR INDIRECT DAMAGES, OR ANY CONSEQUENTIAL DAMAGES AS A RESULT OF THE USE, REUSE OR CHANGES TO FILES OR ANY DATA THEREIN.

12. Termination of this Agreement by Client or Mead & Hunt, Inc. with or without cause, shall be effective upon ten (10) days' written notice to the other party. The written notice may or may not include the reasons and details for termination. Mead & Hunt, Inc. will prepare a final invoice showing all charges incurred through the date of termination; all outstanding payments are due and payable as stated in Section 2. If Client breaches this Agreement, Mead & Hunt, Inc. may, upon ten (10) days' written notice, suspend Services without further obligation or liability to Client.
13. Mead & Hunt, Inc. will provide the Services in accordance with ordinary generally accepted standards of professional practices. Mead & Hunt, Inc. disclaims all warranties and guarantees, express or implied. The parties agree that this is an agreement for professional services and is not subject to any Uniform Commercial Code. Similarly, Mead & Hunt, Inc. will not accept any general terms or conditions offered by Client in its purchase order, requisition, notice of authorization to proceed, or any other contractual document except as set forth herein or expressly agreed to in writing. Written acknowledgment of receipt or the actual performance of Services subsequent to receipt of such other contractual document is specifically deemed not to constitute acceptance of any terms or conditions contrary to those set forth herein. Nothing in this Agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other party.
14. Mead & Hunt, Inc. cannot and does not guarantee that proposals, bids or actual project or construction costs will not vary from the actual and/or final project or construction costs or that the Project or construction costs will not vary from the final costs of the Project. Client agrees to indemnify and to hold Mead & Hunt, Inc. harmless for any claim arising out of or related in any way to the Project or construction costs even if such claim arises out of and/or has been caused in whole or in part by negligence on the part of Mead & Hunt, Inc.
15. If Client is a municipality or state authority or any government authority/agency, Client agrees to indemnify and hold harmless Mead & Hunt, Inc. for all claims arising out of or related in any way to acts done by Mead & Hunt, Inc. in the exercise of legislative or quasi-legislative functions.
16. This Agreement shall not be construed as imposing upon or providing to Mead & Hunt, Inc. the responsibility or authority to direct or supervise construction means, methods, techniques, sequence, or procedures of construction selected by the parties or subcontractors or the safety precautions and programs incident to the work of the parties or subcontractors.
17. In an effort to resolve any conflicts that arise during the design or construction of the Project or following the completion of the Project, Mead & Hunt, Inc. and Client agree to discuss any material disputes between them during the 90 days after notice of disputes given by either





party. If discussions are unsuccessful in resolving the dispute, then the dispute shall be mediated unless the parties mutually agree otherwise. Any claim not resolved by mediation shall be resolved by arbitration in North Dakota ~~Wisconsin~~ with the American Arbitration Association or by litigation in the state of North Dakota ~~Wisconsin~~.

18. The parties agree that Mead & Hunt, Inc.'s Services in connection with this Agreement shall not subject any of Mead & Hunt, Inc.'s current or former employees, officers, directors or shareholders to any personal legal liability for any breaches of this Agreement or for any negligence in performing any Services in connection with this Agreement even if such claim arises out of and/or has been caused in whole or in part by negligence on the part of Mead & Hunt, Inc.'s current or former employees, officers, directors or shareholders. Therefore, notwithstanding anything to the contrary contained herein, Client agrees that Client's sole and exclusive remedy for any breach of contract or any negligent performance of Services in connection with this Agreement shall be a claim against Mead & Hunt, Inc. Client further agrees that any claim, demand, suit, or judgment shall be asserted only against Mead & Hunt, Inc.'s corporate entity, and not against any of Mead & Hunt, Inc.'s current or former employees, officers, directors, or shareholders, and Client covenants not to sue these individuals. Each of Mead & Hunt, Inc.'s current and former employees, officers, directors or shareholders are made express beneficiaries of this section.
19. None of the rights and/or obligations of either party hereunder may be assigned except with the prior written consent of the other party, and any attempted assignment without such consent shall be void.
20. The limitations and indemnity provided herein shall not apply to the willful or intentional acts of Mead & Hunt, Inc. or its employees, shareholders, officers, or directors. Client acknowledges and agrees that it has had an opportunity to negotiate with respect to the limitations of these General Terms and understands and agrees that if those sections were not included herein the fees for the Services provided in connection with this Agreement would be significantly higher. Client further acknowledges that it is a sophisticated party with experience in the acquisition of design services.
21. To the extent permitted by law, Mead & Hunt, Inc. disclaims any duty to defend Client. Client agrees that it shall not tender the defense of any claim arising out of or related to this Agreement to Mead & Hunt, Inc.
22. If any term or provision of this Agreement is held unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force. The various terms, provisions, and covenants herein contained shall be deemed to be separable and severable, and the invalidity or unenforceability of any of them shall in no manner affect or impair the validity or enforceability of the remainder hereof.
23. Nothing contained in this Agreement shall create a contractual relationship with a third party or a cause of action in favor of a third party against Mead & Hunt, Inc. Mead & Hunt, Inc.'s Services under this Agreement are being performed solely for Client's benefit, and no other party or entity shall have any claim against Mead & Hunt, Inc. because of this Agreement or the performance or nonperformance of Services hereunder.
24. The General Terms and this Agreement shall be construed and interpreted in accordance with the laws of the state of Wisconsin. No action may be brought except in the state of North Dakota ~~Wisconsin~~.

ND General Terms and Conditions 7-22
Negotiated w/Hector International Airport (FAR)_20221215_MB



25. Failure of Mead & Hunt, Inc. to insist upon strict conformance of the provisions of this Agreement shall not constitute a waiver of any of the provisions hereof or a waiver of any of the technical requirements, or a waiver of any default provision. Except as may be otherwise expressly stated, the remedies provided herein shall be non-exclusive and in addition to any other remedies in law or equity. A waiver of a breach of any provision of this Agreement shall not constitute a waiver of any subsequent breach of such provision. No waiver of compliance with any provision or condition hereof shall be effective unless agreed in writing duly executed by the waiving party.
26. Neither party shall hold the other responsible for damages or delays in performance caused by Force Majeure or other events beyond the control of the other party and which could not reasonably have been anticipated or prevented. For purposes of this Agreement, Force Majeure shall include, but not necessarily be limited to, adverse weather conditions, floods, epidemics, pandemics, war, riot, civil unrest, strikes, lockouts and other industrial disturbances; unknown site conditions, accidents, sabotage, fire, loss of permits, failure to obtain permits; court orders; acts of God; acts, orders, laws or regulations of any governmental agency. Should such acts or events occur, the parties to this Agreement shall mutually agree on the terms and conditions upon which the Services may be continued. Failing achievement of such an agreement, either party may terminate this Agreement in accordance with Section 12.
27. This Agreement contains the entire understanding between the parties on the subject matter hereof and no representations, inducements, promises or agreements not embodied herein shall be of any force or effect, and this Agreement supersedes any other prior understanding entered into between the parties on the subject matter hereof. No waiver of compliance with any provision or condition hereof shall be effective unless agreed in writing duly executed by the waiving party. Nothing contained in this Agreement shall create a contractual relationship with a third party or a cause of action in favor of a third party against Mead & Hunt, Inc. This Agreement may be executed in any number of counterparts with the same effect as if all Parties hereto had signed the same document. All counterparts shall be construed together and shall constitute one agreement. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal E-SIGN Act of 2000, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

EXHIBIT B
Scope of Services

Long Term Parking Lot Expansion
Municipal Airport Authority
Hector International Airport – Fargo, North Dakota

May 17, 2023

Project Understanding

The project consists of Mead & Hunt providing the Municipal Airport Authority with Construction Services for the construction of a 160-stall bituminous pavement parking lot at the site of the old exit plaza on the west side of the long term parking lot. Utilities included as part of the parking lot include storm sewer, capping existing sanitary and water services, street lighting along with power and fiber modifications to service the new exits plaza's ticketing system.

In addition to the 160 expansion, isolated areas of pavement rehabilitation consisting of crack repair, crack filling and bituminous pavement replacement will be completed in the existing short and long term parking lots.

For this work, it is assumed the contractor will be completed with work within 30 working days from the start of construction. The scope of services is as follows:

Construction Services

1.0 Construction Project Management

The engineer agrees to provide management engineering services required for the execution of the contracted work. A PM will be assigned to the project and will be responsible for the overall administration and review of construction progress, as well as pay requests. The PM will review and provide comment on project compliance issues.

The PM will review the project on a daily basis and will make periodic site visits to monitor construction activities and to attend construction progress meetings. These services shall include, but are not limited to, the following:

- Prepare exhibits, attend and document pre-construction meeting.
- Check construction activities to obtain compliance with plans and specifications.
- Provide interpretation of plans and specifications.
- Coordinate and review inspection and material testing.
- Prepare project work scope and fee for construction services as described in this Exhibit B and prepare needed Consultant-Sponsor Contract as well as subcontract for material testing services.
- Review shop drawings and contractor submitted certificates for compliance with design concepts.
- Review all final pay estimates and explanation of variation between the contract and final quantities.

- Prepare change orders which include a cost estimate, cost/price analysis and record of negotiations. Consultant shall prepare and negotiate all necessary interpretations and clarifications, additions and deletions to change orders, and supplemental agreements as required. Consultant shall submit copies to Owner and the FAA for approval and signature before proceeding with the work.
- Meet with the Owner for consultation and advice during construction.
- Schedule and send notifications for the final construction inspection, attend the final construction inspection, and make recommendations for acceptance of work.
- Attend weekly construction meetings during the course of construction.
- Review payroll reports and monitor contractor's compliance with paying employees, per the Davis-Bacon Act requirements.
- In order to complete the work included for this project, it is anticipated the airport will receive federal funds in excess of \$250,000. Therefore, the Consultant will assist the Sponsor in monitoring the actual participation of DBE contractors. 49 CFR part 26, § 26.55(c) requires that recipients count participation only if the DBE/ACDBE is performing a commercially useful function on that contract. The Consultant will assist in required annual reporting for FFY (2022/23). In accordance with 49 CFR Part 26, the Sponsor is required to report DBE accomplishments for the DOT-assisted contracts by December 1. The reporting shall account for any new qualifying projects started in the federal fiscal year, any payments made to DBE on on-going projects, and final payments made to DBE on qualifying projects closed in the reporting year.

2.0 Resident Engineering

This task will include resident engineering and construction administration for the duration of the project. A resident engineer (RE) will be assigned to this project. The RE will be on-site to coordinate and schedule staff, answer questions, observe quality control activities, process progress reports and record as-built changes. Additionally, the RE will monitor compliance with plans and specifications, acquire field measurements, provide entries in the construction diary, and report non-compliance issues to Owner.

The resident engineer shall maintain a construction diary to record the construction history of the project. The diary will be available to the Owner upon request for review during inspections or visits. The project diary should include, but not be limited to, the following information: weather conditions, job site conditions, work in progress, general location of work, equipment in use, contractors work force and hours worked, delivered materials, tests performed, failed tests (if any) and action taken, instructions to contractors, record of visitors to project and verbal or written instructions given, record of telephone conversations and any verbal instructions received or authorizations granted, engineering field force activity and hours worked, and any delays to construction and the reason for delays. The diary should be in a bound book of good quality that is easy to handle and carry.

Resident engineering services shall include, but are not limited to, the following:

- The Resident Engineer shall notify the contractor of any failure of the work or materials to conform to the requirements of the contract, plans, or specifications. With the Owner's approval, the Resident Engineer, may reject nonconforming materials and will notify the contractor to suspend any work in question, until such issues are resolved.

- Maintain daily records of the contractor's progress and activities during construction and include progress of all work. These records will document work in progress, quality and quantity of materials delivered, test locations and results, instructions provided the contractor, weather conditions, equipment use, labor requirements, safety problems, and required changes.
- Consultant shall evaluate and determine the acceptability of substitute materials and equipment proposed by the contractor. Consultant shall evaluate the contractor's suggestions on drawing or specification modification and report those suggestions to the Owner.
- Consultant shall prepare and submit periodic estimates, including the final estimate, during the construction project. The consultant will determine the amount owed to the contractor and shall recommend those payment amounts in writing. The payment recommendations will demonstrate that work has progressed to the point indicated for payment and that, to the consultant's best knowledge, information, and belief, the quality of such work is in accordance with the contract documents. The Consultant, as an experienced and qualified professional, will make payment recommendations from information gathered during on-site visits, provided by the contractor, reviewed from payment applications and accompanying data and schedules, and/or measured in the field.
- Consultant shall establish and conduct weekly construction progress meetings with the contractor to discuss pertinent construction issues such as schedules, runway and taxiway closures, materials submittals, mix design approvals, secured area access, and the need for traffic control or gate guards.

3.0 Construction Staking

The Consultant will provide construction staking to be utilized by the contractor for construction. The scope of construction staking is based on the following:

- Preparation of necessary staking information and files
- Check & set control
- Storm Sewer
- Subgrade and aggregate blue tops
- Paving grades
- Light bases & electrical pull boxes
- Guard rail
- Striping
- As-built surveys
- Misc. surveys as requested

4.0 Final Inspection and Documentation

- Final Inspection – When the project is complete and ready for final acceptance, Consultant will schedule and conduct a final inspection with the Owner and contractor to determine whether the project has reached substantial completion and verify that the work is in accordance with the plans and specifications. The Consultant will document items found to be deficient and will provide the contractor a listing of those items.
- Final Punch List - Consultant will prepare a punch list correspondence to include the deficient items and will forward the correspondence to the contractor. It will state the items in need of correction and will request a schedule for completion. The Consultant will send a copy to the

Owner. After punch list work is complete and accepted by the Consultant and Owner, the Consultant shall prepare and submit the final cost estimate for the work to the Owner for consideration.

- Final Construction Certifications - Once all the punch list items have been completed to the satisfaction of the Owner, and the Consultant/Owner has received final documentation (signed final estimate, lien releases, etc.) the Consultant will prepare a Certification of Construction Acceptance for the project.
- Prepare as-built documentation/Update Utility Map – Consultant will take data from the as-built surveys, import the information into CAD and update the Airport's utility maps and base files.



May 19, 2023

Shawn A. Dobberstein, AAE
Municipal Airport Authority
PO Box 2845
Fargo, North Dakota 58108

Subject: North GA Apron Expansion – Construction & Project Closeout Services

Dear Shawn A. Dobberstein, AAE:

Mead & Hunt, Inc. (Mead & Hunt) is pleased to submit this proposal to provide construction and project closeout services for the above-referenced project.

Project Understanding

See attached Exhibit B

Mead & Hunt's Scope of Services

After receipt of authorization to proceed, Mead & Hunt shall: See attached Exhibit B

Responsibilities of the Municipal Airport Authority

Our Scope of Services and compensation are based on the Municipal Airport Authority (MAA) performing or providing the following:

- A designated representative with complete authority to transmit instructions and information, receive information, interpret policy, and define decisions.
- Access to the project site.
- Available data, drawings, and information related to the project.
- Review of (draft-final plans/specs/reports, etc.) within (weeks/months) of receipt.
- Protection of Mead & Hunt-supplied digital information or data, if any, from contamination, misuse, or changes.

Work Not Included in the Scope of Services

The following items are excluded from this agreement and will be provided by the MAA or provided by Mead & Hunt, Inc. as an Additional Service only as authorized by the MAA:

- Construction Services beyond the 155 calendar days for Bid Schedules 1 & 3
- Construction Services beyond the completion date of July 19, 2024 for Bid Schedule 2

Project Schedule

- Construction Services for Bid Schedules 1 & 3 are to be completed within 155 calendar days.
- Construction Services Bid Schedule 2 is to be completed July 19, 2024.
- Project Closeout Services are to be completed by December 31, 2024.

Compensation

Construction Services - For Construction Services as described within Exhibit B, Consultant shall receive a reimbursement rate based on actual costs, including overhead and profit. For services of the Consultant's staff engaged directly on the project, the compensation will be an amount equal to the Consultant's direct labor cost times a factor of 3.1984 (Factor = $(1 + \text{OH Rate of } 1.7812) \times \text{fixed fee (15\%)} = 3.1984$). In addition, Consultant shall receive reimbursable expenses not included in the Consultant's overhead rate plus a fixed fee of 15%. The maximum cost of services is \$1,088,000.

Project Closeout Services - The Project Closeout Services as described in Exhibit B will be performed on a lump-sum basis. The MAA will pay Mead & Hunt \$10,260 as engineering fees for the work performed under this contract.

Authorization

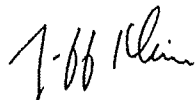
The Scope of Services and Compensation stated in this proposal are valid for a period of thirty (30) days from date of submission. If authorization to proceed is not received during this period, this proposal may be withdrawn or modified by Mead & Hunt.

Signatures of authorized representatives of MAA and Mead & Hunt shall convert this proposal to an Agreement between the two parties, and receipt of one signed copy shall be considered authorization to proceed with the work described in the Scope of Services. All services shall be performed in accordance with the *General Terms and Conditions for Engineering, Architectural, or Consulting Services* which is attached hereto and made part of this Agreement and labeled as Exhibit A.

We appreciate the opportunity to submit this proposal to MAA.

Respectfully submitted,

MEAD & HUNT, INC.



Jeff Klein, PE
Project Manager

Attachment

Approved by: MEAD & HUNT, INC.

By: _____

Name: _____

Title: _____

Date: _____

Shawn A. Dobberstein, AAE
May 19, 2023
Page 3

Accepted by: the Municipal Airport Authority

By: _____

Name: _____

Title: _____

*The above person is authorized to sign for Client
and bind the Client to the terms hereof.*

Date: _____

Exhibit A. General Terms and Conditions

Mead & Hunt, Inc.
General Terms and Conditions ("General Terms") for Engineering,
Architectural, or Consulting Services
North Dakota

1. Client and Mead & Hunt, Inc. hereby mutually agree to the terms and conditions contracted in this Agreement for Engineering, Architectural or Consulting Services, including these General Terms and Conditions for Engineering, Architectural, or Consulting Services, and any and all documents incorporated by reference into this Agreement (together, this "Agreement"). This Agreement constitutes this Agreement between Client and Mead & Hunt, Inc. as pursuant to which Services are to be performed by Mead & Hunt, Inc. Receipt by Client of the executed Agreement shall be considered written authorization for Mead & Hunt, Inc. to proceed. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in this Agreement.
2. Mead & Hunt, Inc. will bill Client monthly, according to the payment method set forth in this Agreement, with net payment due within thirty (30) days. Past due balances shall be subject to an interest charge at a rate of 1% per month. In addition, Mead & Hunt, Inc. may, after giving ten (10) days' written notice, suspend the Services under this Agreement until Client has paid in full all amounts due it for services rendered and expenses incurred, including the interest charge on past due invoices. The fees or rates stated in this Agreement does not include any applicable state and local sales or use taxes or gross receipts taxes; such taxes shall be the sole responsibility of Client.
3. The fees, Services and Scope of Services stated in this Agreement constitute an estimate of the fees and tasks required to perform the Services. Should the Project involve conceptual or process development services, Services often cannot be fully defined during the initial planning stages. As the Project progresses, facts uncovered may also reveal a change in direction which may alter the Scope of Services. If Client requests modifications or changes in the Scope of Services related to the Project, the time of performance of the Services by Mead & Hunt, Inc. and the fees associated therewith shall be revised and accepted by both parties in writing before Mead & Hunt, Inc. undertakes any additional work beyond the Scope of Services. Mead & Hunt, Inc. is not acting as a Municipal Advisor as defined by the Dodd Frank Act.
4. To the fullest extent permitted by law, Client shall indemnify and hold harmless Mead & Hunt, Inc. and its officers, agents, representatives and employees from and against liabilities, claims, losses, damages, expenses, including but not limited to attorney's fees and disbursements, arising out of or resulting from (i) delays caused in whole or in part by Client's interference with Mead & Hunt, Inc.'s ability to provide the Services, including, but not limited to, Client's failure to provide facilities or information specified in this Agreement, (ii) inaccuracies in documents or other information provided by Client to Mead & Hunt, Inc., or (iii) failure to perform under this Agreement, caused by or that arise in whole or in part by any negligent acts, errors or omissions of Client. Mead & Hunt, Inc. reserves the right to renegotiate this Agreement due to any unforeseen delays caused by events beyond Mead & Hunt, Inc.'s control, such as Force Majeure events as described in Section 26 or other events beyond Mead & Hunt, Inc.'s control, like funding for the Project. If any word or clause of this Agreement is determined not to be in compliance with North Dakota Statutes §9-08 -02.1, including any amendments thereto, it shall be stricken and replaced and the remaining word, clause and provisions shall remain in full force and effect.
5. Client agrees to provide such legal, accounting and insurance counseling services as may be required for the Project.
6. Mead & Hunt, Inc. will maintain insurance coverage for worker's compensation, general liability, automobile liability, and professional liability. Mead & Hunt, Inc. will provide information as to specific limits upon written request. If Client requires coverages or limits in addition to those that Mead & Hunt, Inc. currently has in effect as of the date of this Agreement, premiums for additional insurance shall be paid by Client.
7. **MEAD & HUNT, INC. (INCLUDING ITS CURRENT AND FORMER EMPLOYEES, OFFICERS, DIRECTORS OR SHAREHOLDERS) AND OWNER ARE NOT LIABLE, IN CONTRACT OR TORT OR OTHERWISE, FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR LIQUIDATED DAMAGES INCLUDING SPECIFICALLY, BUT WITHOUT LIMITATION, LOSS OF PROFIT OR REVENUE, LOSS OF CAPITAL, DELAY DAMAGES, LOSS OF GOODWILL, CLAIM OF THIRD PARTIES, OR SIMILAR DAMAGES ("DAMAGES"). NOTWITHSTANDING THE FOREGOING, CLIENT SHALL BE LIABLE HEREUNDER TO THE EXTENT THAT MEAD & HUNT, INC. IS HELD LIABLE BY ITS SUBCONSULTANTS OR A THIRD-PARTY FOR DAMAGES CAUSED BY OWNER OR ITS EMPLOYEES, INDEPENDENT CONTRACTORS, OR AGENTS. IN NO EVENT SHALL MEAD & HUNT, INC.'S OR ITS SUBCONSULTANTS' LIABILITY ARISING OUT OF OR RELATED TO ANY BREACH OF THIS AGREEMENT EXCEED THE AMOUNT OF FEES BILLED BY MEAD & HUNT, INC. TO CLIENT FOR SERVICES PERFORMED PURSUANT TO THIS AGREEMENT.**
8. Mead & Hunt, Inc.'s (including its current or former employees, officers, directors, or shareholders) liability to Client for any damages shall not exceed the amount of fees billed by Mead & Hunt, Inc. to Client for services performed pursuant to this Agreement within the last twelve (12) months from the date that the last invoice was submitted to Client by Mead & Hunt, Inc., regardless as to whether Client paid such invoice.
9. Mead & Hunt, Inc. and Client agree that the ultimate liability for contaminants or pollutants regardless of its source, and for the actual, alleged, or threatened discharge, dispersal, release, or escape of pollutants, mycotoxins, spores, smoke, vapors, soot, fumes, mold, acids, alkalis, toxic chemicals, mildew, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, buildings, the atmosphere, or body of water shall remain with Client; and the responsibility and/or liability for any of the foregoing and for the ownership and maintenance of any toxic, hazardous, or asbestos materials relating to the project shall remain with Client.
10. Client and Mead & Hunt, Inc. shall not, during the term of this Agreement or after the termination of this Agreement for a period of one (1) year disclose any Confidential Information to any person or entity, or use any Confidential Information for the benefit of Client or Mead & Hunt, Inc., as the case may be, or any other person or entity, except

with the prior written consent of Mead & Hunt, Inc. or Client, as the case may be, or as required by law. The term "Confidential Information" means information marked or designated by Mead & Hunt, Inc. or Client as confidential. Confidential Information includes, but is not limited to, the purpose, duration, or extent of studies, surveys, and tests conducted by Mead & Hunt, Inc. or its subconsultants throughout the duration of this Agreement, ideas, specifications, techniques, models, data, programs, documentation, processes, know-how, and financial and technical information. Notwithstanding the foregoing, Confidential Information shall not include information or material that (i) is publicly available or becomes publicly available through no action or fault of receiving party, (ii) was already in receiving party's possession or known to receiving party prior to being disclosed or provided to receiving party by or on behalf of disclosing party, provided that the source of information or material was not bound by a contractual, legal or fiduciary obligation of confidentiality to disclosing party or any other party with respect thereto, (iii) was or is obtained by receiving party from a third party, provided that such third party was not bound by a contractual, legal or fiduciary obligation of confidentiality to disclosing party or any other party with respect to such information or material, or (iv) is independently developed by receiving party without reference to the Confidential Information. Except as required by law or court order, the provisions of this clause shall apply to Client's communications with members of the public, governmental agencies, and all other individuals or organizations. The restrictions set forth in this section shall remain in full force and effect (a) with respect to the Confidential Information, for a period of six (6) years following the earlier of the termination of this Agreement or the completion of services under this Agreement; and (b) with respect to the Trade Secrets, which shall have the meaning set forth under applicable law, until the Trade Secrets no longer retain their status or qualify as trade secrets under applicable law.

11. Mead & Hunt, Inc. shall retain ownership and property interest in all documents prepared or furnished by Mead & Hunt, Inc. and its independent professional associates and consultants, in connection with the Project, which include, but are not limited to, models, plans, sketches, designs, drawings details, specifications, all data and image files, both electronic and hard copy, as applicable (hereinafter "files"), and such files are part of Mead & Hunt, Inc.'s Instruments of Services. Mead & Hunt, Inc. may release files to any other party involved in the Project; and if such release is not provided for in the Scope of Services, fees may be adjusted before the documents are prepared for electronic submittal. Client is not permitted to use Mead & Hunt, Inc. files for any other project without express written permission from Mead & Hunt, Inc., and Mead & Hunt, Inc. may request Client to return or destroy such files at any time. Mead & Hunt, Inc. makes no representation as to compatibility of electronic files with Client's hardware or software and assumes no liability with respect to any use or reuse of the files by Client. Mead & Hunt, Inc. will have no liability to Client or any third party for any material in or transmitted with the files, including without limitations any virus, worm, trap door, back door, tracker, or other illicit code or program that may result from such use or reuse of files. Client hereby indemnifies and holds harmless Mead & Hunt, Inc. against any and all claims related to any use or reuse of the files. Differences may exist between these electronic files and corresponding hard-copy documents prepared by Mead & Hunt, Inc. and the electronic files, the signed or sealed hard-copy documents shall govern. Because information presented on the electronic files can be modified, unintentionally or otherwise, Mead & Hunt, Inc. reserves the right to remove all indicia of ownership and/or involvement from each electronic display. MEAD & HUNT, INC. PROVIDES THE FILES "AS IS," "WITH ALL FAULTS" AND "AS AVAILABLE." TO THE MAXIMUM EXTENT

PERMITTED BY APPLICABLE LAW. UNDER NO CIRCUMSTANCES SHALL DELIVERY OF THE FILES FOR USE OR REUSE BE DEEMED AS SALE BY MEAD & HUNT, INC. AND MEAD & HUNT, INC. MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR ANY PARTICULAR PURPOSE. IN NO EVENT SHALL MEAD & HUNT, INC. BE LIABLE FOR ANY LOSS OF PROFIT, DIRECT OR INDIRECT DAMAGES, OR ANY CONSEQUENTIAL DAMAGES AS A RESULT OF THE USE, REUSE OR CHANGES TO FILES OR ANY DATA THEREIN.

12. Termination of this Agreement by Client or Mead & Hunt, Inc. with or without cause, shall be effective upon ten (10) days' written notice to the other party. The written notice may or may not include the reasons and details for termination. Mead & Hunt, Inc. will prepare a final invoice showing all charges incurred through the date of termination; all outstanding payments are due and payable as stated in Section 2. If Client breaches this Agreement, Mead & Hunt, Inc. may, upon ten (10) days' written notice, suspend Services without further obligation or liability to Client.
13. Mead & Hunt, Inc. will provide the Services in accordance with ordinary generally accepted standards of professional practices. Mead & Hunt, Inc. disclaims all warranties and guarantees, express or implied. The parties agree that this is an agreement for professional services and is not subject to any Uniform Commercial Code. Similarly, Mead & Hunt, Inc. will not accept any general terms or conditions offered by Client in its purchase order, requisition, notice of authorization to proceed, or any other contractual document except as set forth herein or expressly agreed to in writing. Written acknowledgment of receipt or the actual performance of Services subsequent to receipt of such other contractual document is specifically deemed not to constitute acceptance of any terms or conditions contrary to those set forth herein. Nothing in this Agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other party.
14. Mead & Hunt, Inc. cannot and does not guarantee that proposals, bids or actual project or construction costs will not vary from the actual and/or final project or construction costs or that the Project or construction costs will not vary from the final costs of the Project. ~~Client agrees to indemnify and to hold Mead & Hunt, Inc. harmless for any claim arising out of or related in any way to the Project or construction costs even if such claim arises out of and/or has been caused in whole or in part by negligence on the part of Mead & Hunt, Inc.~~
15. If Client is a municipality or state authority or any government authority/agency, Client agrees to indemnify and hold harmless Mead & Hunt, Inc. for all claims arising out of or related in any way to acts done by Mead & Hunt, Inc. in the exercise of legislative or quasi-legislative functions.
16. This Agreement shall not be construed as imposing upon or providing to Mead & Hunt, Inc. the responsibility or authority to direct or supervise construction means, methods, techniques, sequence, or procedures of construction selected by the parties or subcontractors or the safety precautions and programs incident to the work of the parties or subcontractors.
17. In an effort to resolve any conflicts that arise during the design or construction of the Project or following the completion of the Project, Mead & Hunt, Inc. and Client agree to discuss any material disputes between them during the 90 days after notice of disputes given by either





party. If discussions are unsuccessful in resolving the dispute, then the dispute shall be mediated unless the parties mutually agree otherwise. Any claim not resolved by mediation shall be resolved by arbitration in North Dakota Wisconsin with the American Arbitration Association or by litigation in the state of North Dakota Wisconsin.

18. The parties agree that Mead & Hunt, Inc.'s Services in connection with this Agreement shall not subject any of Mead & Hunt, Inc.'s current or former employees, officers, directors or shareholders to any personal legal liability for any breaches of this Agreement or for any negligence in performing any Services in connection with this Agreement even if such claim arises out of and/or has been caused in whole or in part by negligence on the part of Mead & Hunt, Inc.'s current or former employees, officers, directors or shareholders. Therefore, notwithstanding anything to the contrary contained herein, Client agrees that Client's sole and exclusive remedy for any breach of contract or any negligent performance of Services in connection with this Agreement shall be a claim against Mead & Hunt, Inc. Client further agrees that any claim, demand, suit, or judgment shall be asserted only against Mead & Hunt, Inc.'s corporate entity, and not against any of Mead & Hunt, Inc.'s current or former employees, officers, directors, or shareholders, and Client covenants not to sue these individuals. Each of Mead & Hunt, Inc.'s current and former employees, officers, directors or shareholders are made express beneficiaries of this section.
19. None of the rights and/or obligations of either party hereunder may be assigned except with the prior written consent of the other party, and any attempted assignment without such consent shall be void.
20. The limitations and indemnity provided herein shall not apply to the willful or intentional acts of Mead & Hunt, Inc. or its employees, shareholders, officers, or directors. Client acknowledges and agrees that it has had an opportunity to negotiate with respect to the limitations of these General Terms and understands and agrees that if those sections were not included herein the fees for the Services provided in connection with this Agreement would be significantly higher. Client further acknowledges that it is a sophisticated party with experience in the acquisition of design services.
21. To the extent permitted by law, Mead & Hunt, Inc. disclaims any duty to defend Client. Client agrees that it shall not tender the defense of any claim arising out of or related to this Agreement to Mead & Hunt, Inc.
22. If any term or provision of this Agreement is held unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force. The various terms, provisions, and covenants herein contained shall be deemed to be separable and severable, and the invalidity or unenforceability of any of them shall in no manner affect or impair the validity or enforceability of the remainder hereof.
23. Nothing contained in this Agreement shall create a contractual relationship with a third party or a cause of action in favor of a third party against Mead & Hunt, Inc. Mead & Hunt, Inc.'s Services under this Agreement are being performed solely for Client's benefit, and no other party or entity shall have any claim against Mead & Hunt, Inc. because of this Agreement or the performance or nonperformance of Services hereunder.
24. The General Terms and this Agreement shall be construed and interpreted in accordance with the laws of the state of Wisconsin. No action may be brought except in the state of North Dakota Wisconsin.

ND General Terms and Conditions 7-22

Negotiated w/Hector International Airport (FAR)_20221215_MB



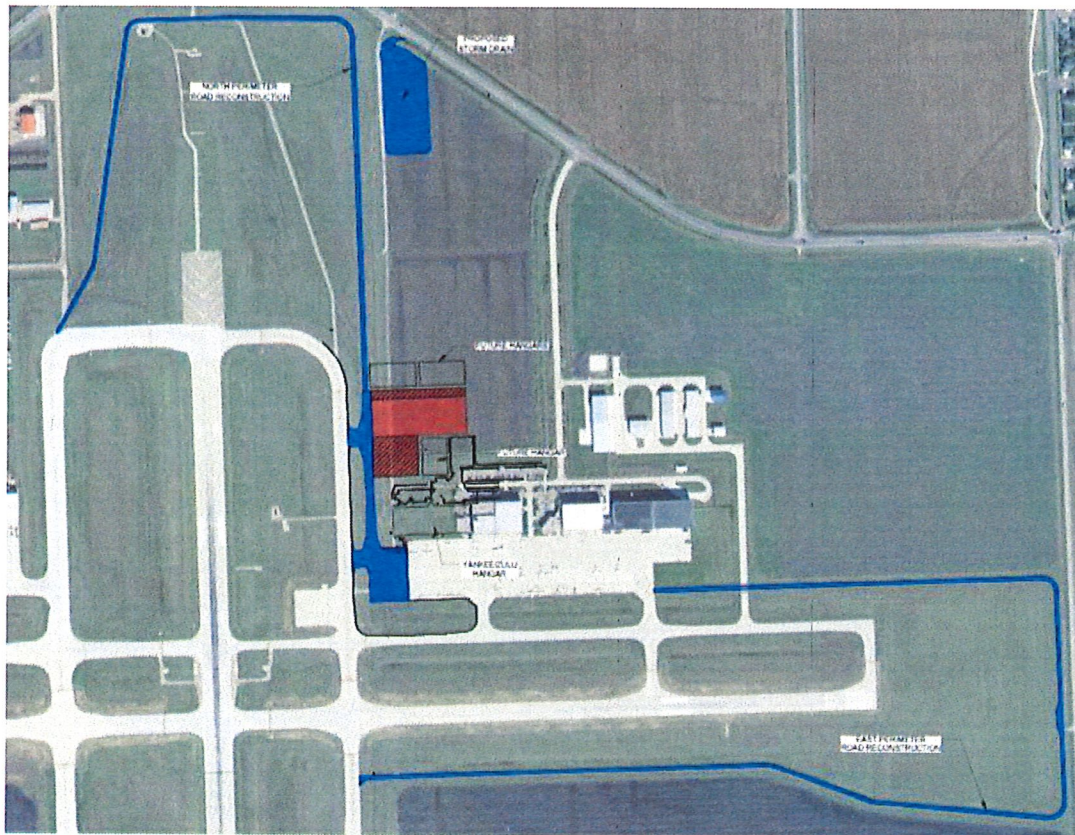
25. Failure of Mead & Hunt, Inc. to insist upon strict conformance of the provisions of this Agreement shall not constitute a waiver of any of the provisions hereof or a waiver of any of the technical requirements, or a waiver of any default provision. Except as may be otherwise expressly stated, the remedies provided herein shall be non-exclusive and in addition to any other remedies in law or equity. A waiver of a breach of any provision of this Agreement shall not constitute a waiver of any subsequent breach of such provision. No waiver of compliance with any provision or condition hereof shall be effective unless agreed in writing duly executed by the waiving party.
26. Neither party shall hold the other responsible for damages or delays in performance caused by Force Majeure or other events beyond the control of the other party and which could not reasonably have been anticipated or prevented. For purposes of this Agreement, Force Majeure shall include, but not necessarily be limited to, adverse weather conditions, floods, epidemics, pandemics, war, riot, civil unrest, strikes, lockouts and other industrial disturbances; unknown site conditions, accidents, sabotage, fire, loss of permits, failure to obtain permits; court orders; acts of God; acts, orders, laws or regulations of any governmental agency. Should such acts or events occur, the parties to this Agreement shall mutually agree on the terms and conditions upon which the Services may be continued. Failing achievement of such an agreement, either party may terminate this Agreement in accordance with Section 12.
27. This Agreement contains the entire understanding between the parties on the subject matter hereof and no representations, inducements, promises or agreements not embodied herein shall be of any force or effect, and this Agreement supersedes any other prior understanding entered into between the parties on the subject matter hereof. No waiver of compliance with any provision or condition hereof shall be effective unless agreed in writing duly executed by the waiving party. Nothing contained in this Agreement shall create a contractual relationship with a third party or a cause of action in favor of a third party against Mead & Hunt, Inc. This Agreement may be executed in any number of counterparts with the same effect as if all Parties hereto had signed the same document. All counterparts shall be construed together and shall constitute one agreement. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal E-SIGN Act of 2000, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

EXHIBIT B
Scope of Services - Construction
North General Aviation Apron Expansion
Hector International Airport – Fargo, North Dakota

May 19, 2023

Project Understanding: This project is being completed to expand the north general aviation apron to accommodate planned hangar development. Two new taxiways connecting the expanded apron to Twy B will be constructed are necessary. In addition, the existing bituminous north and east perimeter roads will be reconstructed and realigned due to pavement condition and safety recommendations from the FAA. Major elements of work will include demolition, earthwork, storm sewer and storm water detention pond, lift station, electrical, aggregate base, pcc paving, bituminous paving, seeding mulching and pavement markings.

The project is broken into 3 Bid Schedules. Bid Schedule 1 is the area of blue shown below, Bid Schedule 2 is the area in pink and Bid Schedule 3 consists of the necessary electrical work (airfield signs, edge lighting, lift station power, etc) and is not shown. Bid Schedules 1 & 3 are to be completed within 155 calendar days in 2023, while Bid Schedule 2 has a completion date of July 19, 2024.



It is anticipated this project will be funded with a single FAA AIP grant (passenger & cargo entitlement) thus requiring a FAA project closeout report. Areas of pavement ineligible for AIP funding (black hatch) will be tracked separately.

The overall scope of services is as follows:

Construction Services

1.0 Pre-Construction Conference

Consultant shall arrange for and conduct the pre-construction conference at the airport. The project manager (PM) and the resident engineer (RE) will establish this meeting to review FAA and project specific requirements prior to commencing construction. The meeting will be conducted at the Airport and will include the Owner, contractor, subcontractors, ATCT and any Airport tenants affected by construction. This task will include the following:

- Schedule meeting, send invitations, provide meeting materials, and prepare pre-meeting exhibits and materials.
- Prior to the pre-construction conference, furnish the Owner with the name of the project engineer and qualifications for Owner approval. Project Engineer means 'Engineer' as defined in Section 10 (Section 10-18) of the General Provisions.
- Provide the contractor with a list of required submittals that they must provide and discuss at the pre-construction conference.
- Preside at the pre-construction conference, prepare a detailed record of the conference, submit record to the Owner for review and comment, and distribute the final record.

2.0 Initial Construction Layout

The Consultant will coordinate initial survey work to establish construction limits, locations of barricades or construction signs, and survey controls. A subtask will include a survey crew for the level loop verification of horizontal and vertical field control.

3.0 Prepare Construction Management Plan (CMP)

The RE will obtain and review the contractor's Quality Control (QC) Plan and will then prepare the Construction Management Plan (CMP). The CMP combines data from the QC Plan with information of project responsibilities from the Owner and engineer. A preliminary copy of the CMP will be submitted to the Owner and FAA for approval. After FAA review, the CMP may be revised or issued to the contractor for use.

The Consultant will prepare a CMP that outlines the materials testing requirements, as set forth in the construction documents and contained in Federal Advisory Circular 150/5370-10H. The CMP will summarize the types and frequency of testing required for quality acceptance, in addition to the credentials of those performing the testing.

4.0 Prepare Project Files

The Consultant will verify that the construction contracts are in order, the contractor has met or made a good-faith effort toward Disadvantaged Business Enterprise (DBE) goals, the contractor has

provided proof of insurance and the bonds have been completed, and the contractor has been provided with adequate copies of the construction plans.

The construction plans will be updated to include all addenda items issued during bidding. The quantity sheets, testing sheets, and construction report format will be prepared.

5.0 Grant Administration Assistance

This task shall include assisting the Owner with necessary grant application and project tracking documentation in order to make periodic draws on the grant and will include the following:

- Calculate cost summary included in the grant draw request.
- Assemble supporting documentation, such as invoices, estimates, change orders, etc.
- Complete FAA Form 5100-100, Application for Federal Assistance (Construction Programs).
- Complete FAA Form SF 271, Outlay Report and Request for Reimbursement for Construction Programs.
- Project Narrative and existing site photographs.
- Project Information Form and Checklist.
- Project Schedule.
- FAA Quarterly Reports

In order to complete the work included in this task order, it is anticipated the airport will receive federal funds in excess of \$250,000. Therefore, this scope of services includes monitoring of the existing Disadvantaged Business Enterprise (DBE) Program.

6.0 Construction Project Management

The engineer agrees to provide management engineering services required for the execution of the contracted work. A PM will be assigned to the project and will be responsible for the overall administration and review of construction progress, as well as pay requests. The PM will review and provide comment on project compliance issues for quality control testing performed by the Contractor.

The PM will review the project on a daily basis and will make site visits to monitor construction activities and to attend construction progress meetings. These services shall include, but are not limited to, the following:

- Check construction activities to obtain compliance with plans and specifications.
- Provide interpretation of plans and specifications.
- Supervise and coordinate subconsultant contracts.
- Review shop drawings and contractor submitted certificates for compliance with design concepts and FAA requirements.
- Review all final pay estimates and explanation of variation between the contract and final quantities.
- Prepare change orders which include a cost estimate, cost/price analysis and record of negotiations. Consultant shall prepare and negotiate all necessary interpretations and clarifications, additions and deletions to change orders, and supplemental agreements as required. Consultant shall submit copies to Owner and the FAA for approval and signature before proceeding with the work. Any additional design would not be considered in the scope of this task order.

- Meet with the Owner for consultation and advice during construction.
- Schedule and send notifications for the final construction inspection, attend the final construction inspection, and make recommendations for acceptance of work.
- Verify that all testing required by the specifications is performed, and review all materials reports prepared in accordance with the Construction Management Plan.
- Update record drawings during the course of construction from redline or working drawings.
- Review payroll reports and monitor contractor's compliance with paying employees, per the Davis-Bacon Act requirements.
- Monitor contractor's compliance with Disadvantaged Business Enterprise program.

7.0 Resident Engineering

This task will include resident engineering, quality assurance testing, and construction administration for the duration of the project. A full-time resident engineer (RE) will be assigned to this project. The RE will be on-site to coordinate and schedule staff, answer questions, observe quality control activities, process progress reports and record as-built changes. Additionally, the RE will monitor compliance with plans and specifications, acquire field measurements, provide entries in the construction diary, and report non-compliance issues to Owner.

The resident engineer shall maintain a construction diary to record the construction history of the project. The diary will be made available to the Owner upon request for review during inspections or visits. The project diary should include, but not be limited to, the following information: weather conditions, job site conditions, work in progress, general location of work, equipment in use, contractors work force and hours worked, delivered materials, tests performed, failed tests (if any) and action taken, instructions to contractors, record of visitors to project and verbal or written instructions given, record of telephone conversations and any verbal instructions received or authorizations granted, engineering field force activity and hours worked, and any delays to construction and the reason for delays. The diary should be in a bound book of good quality that is easy to handle and carry.

Resident engineering services shall include, but are not limited to, the following:

- Construction survey layout shall be in accordance with "General Requirements and Covenants for Airport Construction" Section 50-06.
- Make necessary acceptance tests in accordance with the cited requirements and standard methods of FAA, ASTM, and AASHTO; record all test results on the appropriate forms; prepare a summary and disposition of all testing and materials inspection; and record all deviating tests. Consultant shall conduct materials inspections and acceptance tests required by the FAA and observe and evaluate all such tests made by the contractor in the field and laboratory as necessary in accordance with plans and specifications. Consultant shall furnish copies of all test reports to the Owner. Monitor contractor's performance of the required quality control tests. The resident engineer shall immediately bring any non-compliance issues to the attention of the contractor and Owner.
- The Resident Engineer shall notify the contractor of any failure of the work or materials to conform to the requirements of the contract, plans, or specifications. With the Owner's approval,

the Resident Engineer, may reject nonconforming materials and will notify the contractor to suspend any work in question, until such issues can be resolved.

- Maintain daily records of the contractor's progress and activities during the course of construction and include progress of all work. These records will document work in progress, quality and quantity of materials delivered, test locations and results, instructions provided the contractor, weather conditions, equipment use, labor requirements, safety problems, and required changes.
- Consultant shall evaluate and determine the acceptability of substitute materials and equipment proposed by the contractor. Consultant shall evaluate the contractor's suggestions on drawing or specification modification and report those suggestions to the Owner.
- Consultant shall review contractor's weekly submitted payrolls for compliance with Federal and State law on classification and wage rates; check and submit reports on shop drawings and construction submittals; and prepare and maintain necessary records of construction progress.
- Consultant shall prepare and submit periodic estimates, including the final estimate, during the construction project. The consultant will determine the amount owed to the contractor and shall recommend those payment amounts in writing. The Consultant will submit periodic payment recommendations to the FAA for federal participation payment requests. The payment recommendations will demonstrate that work has progressed to the point indicated for payment and that, to the consultant's best knowledge, information, and belief, the quality of such work is in accordance with the contract documents. The Consultant, as an experienced and qualified professional, will make payment recommendations from information that is gathered during on-site visits, provided by the contractor, reviewed from payment applications and accompanying data and schedules, and/or measured in the field.
- Consultant shall monitor the contractor's compliance with the Construction Operations and Safety Plan and immediately bring any non-compliance issues to the attention of the contractor.
- Consultant shall establish and conduct weekly construction progress meetings with the contractor to discuss pertinent construction issues such as schedules, runway and taxiway closures, materials submittals, mix design approvals, secured area access, and the need for traffic control or gate guards.

8.0 Quality Control Surveying

- Provide horizontal and vertical control
- Periodic checks on control points
- Quality control checks on surfaces as they are being constructed
- Construction Layout per Section 50-06
- As-built survey
- Quantity surveys
- Misc surveys as requested

9.0 Final Inspection and Documentation

9.1 Final Inspection

When the project is complete and ready for final acceptance, Consultant will schedule and conduct a final inspection with the Owner, contractor, and State and FAA representatives to determine whether the project has reached substantial completion and verify that the work is in

accordance with the plans and specifications. The Consultant will document items found to be deficient and will provide the contractor a listing of those items.

9.2 Final Punch List

Consultant will prepare a punch list correspondence to include the deficient items and will forward the correspondence to the contractor. It will state the items in need of correction and will request a schedule for completion. The Consultant will send a copy to the Owner. After punch list work is complete and accepted by the Consultant and Owner, the Consultant shall prepare and submit the final cost estimate for the work to the Owner for consideration.

9.3 Final Construction Certifications

Once all the punch list items have been completed to the satisfaction of the Owner, State, and FAA, and the Consultant/Owner has received final documentation (signed final estimate, lien releases, etc.) the Consultant will prepare a Certification of Construction Acceptance for the project. This certification will also be included in the Grant Closeout Report.

9.4 Final As-Built Plans

The project team will collaboratively assemble the project as-built plans. The as-built plans will specify field constructed conditions included as part of this project. Any drawings will become record information. The consultant shall provide the Owner with reproducible "Record Drawings" in digital and hardcopy format.

Project Closeout

1.0 Federal Grant Closeout Report

Once the project is complete, a project closeout report will be prepared and assembled. The project shall be prepared in accordance with FAA Order 5100-38C, Chapter 13, Section 2 requirements. Components of the report will include a summarization of the project description, periodic draws on the grant, change orders and amendments, project certifications, documentation of final project acceptance, DBE accomplishment, reporting, and the final *Outlay and Request for Reimbursement for Construction Programs* (FAA Form SF 270 or SF 271). As part of this task, the project closeout will be coordinated with the Owner and FAA. At the project conclusion the Consultant will coordinate obtaining the required closeout documentation and expedite to the extent possible the final submittal of the Closeout Report.

2.0 Materials Book

The project team will collaboratively assemble the materials quality book for the project. The materials book will include an accounting for all quality acceptance testing performed as part of this project. This will include a summary of passing tests, as well as failing tests and corrective measures taken to in order to achieve satisfactory results.

Additional Notes:

- Proposal does not include site investigation or mitigation of any hazardous materials found during construction. If this work is found to be necessary, it shall be done under a separate agreement.

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Issued in Washington, DC, on September 4, 2013.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES-200.

[FR Doc. 2013-22035 Filed 9-9-13; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Approval of Finding of No Significant Impact (FONSI) for Murdo Municipal Airport, Murdo, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is announcing approval of Finding of No Significant Impact for proposed development at the Murdo Municipal Airport, Murdo, South Dakota. The FAA approved the FONSI on August 22, 2013.

SUPPLEMENTARY INFORMATION: The FONSI approved the Sponsor's proposed action to extend primary Runway 14-32 (approximately 600' x 60') and construct turnaround (approximately 200' x 75') on Runway 14 end. Extend graded safety area (approximately 200' x 120') on Runway 14 end. Acquire approximately 63.0 acres of land in fee and acquire approximately 2.0 acres of restrictive easements.

The approved action is to enhance the safety and utility of the airport in order to meet the needs of current and projected aviation activity by the design family. The need for the action is to bring the Murdo Municipal Airport in compliance with FAA design standards for 95% of A/B-I Small Aircraft (design aircraft family), specifically runway length.

The FONSI indicates the project is consistent with existing environmental policies and objectives as set forth in the National Environmental Policy Act (NEPA) of 1969, as amended and will not significantly affect the quality of the environment.

In reaching this decision, the FAA has given careful consideration to: (a) The role of Murdo plays in the national air transportation system, (b) aviation safety, and (c) preferences of the airport owner/operator, and (d) anticipated environmental impact.

DATES: This notice is effective September 10, 2013.

FOR FURTHER INFORMATION CONTACT: Ms. Lindsay Butler, Federal Aviation Administration, Great Lakes Regional

Office, 2300 East Devon Avenue, Des Plaines, IL 60018. Telephone number: 847-294-7723.

Issued in Des Plaines, IL: August 26, 2013.

Jesse Carriger,

Manager, Planning/Programming Branch, FAA Great Lakes Region.

[FR Doc. 2013-21887 Filed 9-9-13; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RIN 2120-AF90

Policy Regarding Airport Rates and Charges

AGENCY: Department of Transportation, Federal Aviation Administration.

ACTION: Notice; publication of entire policy statement as amended.

SUMMARY: This action publishes the entire Department of Transportation ("Department"), Federal Aviation Administration ("FAA"), "Policy Regarding Airport Rates and Charges" ("Policy") to reflect all deletions from and amendments to the policy to date. The Policy was originally published in the *Federal Register* on June 21, 1996 ("1996 Rates and Charges Policy"). In response to a subsequent petition for review, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision in 1997 that vacated the challenged provisions of the 1996 Rates and Charges Policy and the Secretary's supporting discussion in the preamble. In 2008, the Department and FAA adopted three amendments to the Policy, to allow operators of congested airports to use landing fees to provide incentives to air carriers to use the airport at less congested times or to use alternate airports to meet regional air service needs. The *Federal Register* notice publishing those amendments set out the amendments, but did not publish an entire version of the policy as amended. As a convenience for the public and for regulated entities, this notice publishes the entire Policy Regarding Airport Rates and Charges currently in effect in a single document. The FAA is not adopting or proposing any new amendments to the Policy in this notice.

DATES: This Policy statement reflects the most recent amendments to the Policy Regarding Airport Rates and Charges, which took effect on July 14, 2008.

ADDRESSES: To read background documents or comments received, go to <http://www.regulations.gov> at any time or to Room W12-140 on the ground

floor of the West Building, 200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Randall S. Fiertz, Director, Office of Airport Compliance and Management Analysis, ACO-1, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-3085; facsimile (202) 267-5769; email Randall.Fiertz@faa.gov.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You can get an electronic copy of this notice and all other documents in this docket using the Internet by:

- (1) Searching the Federal eRulemaking portal (<http://www.regulations.gov/search>);
- (2) Visiting the FAA's Regulations and Policies Web page at http://www.faa.gov/regulations_policies; or
- (3) Accessing the Government Printing Office's Web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

Authority for This Proceeding

This notice is published under the authority described in Subtitle VII, Part B, Chapter 471, § 47129 of Title 49 United States Code. Under subsection (b) of § 47129, the Secretary of Transportation is required to publish policy statements establishing standards or guidelines the Secretary will use in determining the reasonableness of airport fees charged to airlines under § 47129.

Background

The Department of Transportation (Department) and the Federal Aviation Administration (FAA) published a Policy Regarding Airport Rates and Charges in the *Federal Register* on June 21, 1996 (61 FR 31994). ("1996 Rates and Charges Policy"). The statement of policy was required by § 113 of the FAA Authorization Act of 1994, Public Law 103-305 (August 23, 1994), now codified at 49 U.S.C., 47129, Specific sections of the 1996 Rates and Charges Policy (namely, paragraphs 2.4, 2.4.1, 2.4.1(a), 2.5.1, 2.5.1(a)-(e), 2.5.3(a), 2.6 and other portions of the Policy necessarily implicated by the Court's holding) were subsequently vacated by the United States Court of Appeals for the District of Columbia Circuit in *Air Transport Ass'n of America v. DOT*, 119 F.3d 38, amended by 129 F.3d 625 (D.C. Cir. 1997). In July 2008, following notice and opportunity for public comment, the Department and FAA adopted three

amendments to the Policy (73 FR 40430, July 14, 2008). The amendments are intended to provide greater flexibility to operators of congested airports to use landing fees to provide incentives to air carriers to use the airport at less congested times or to use alternate airports to meet regional air service needs. The amendments to the Policy were affirmed by the United States Court of Appeals for the District of Columbia Circuit, *Air Transport Ass'n v. DOT*, 613 F.3d 206 (D.C. Cir. 2010). In 2012, Congress included foreign air carriers (in addition to air carriers) under § 47129. See, § 148 of the FAA Authorization Act of 2012, Public Law 112–95, 126 Stat. 11 (Feb. 14, 2012)

The FAA has received requests for a complete official version of the Policy, as amended since 1996, and FAA understands the convenience of a complete statement of the policy for anyone needing to refer to the contents of this Policy. Accordingly, by this notice, FAA is publishing an official version of the entire Policy Regarding Airport Rates and Charges that reflects all of the changes to the language of the Policy since 1996, and is republished solely for the convenience of stating a complete version of the Policy in a single document.

Rates and Charges Policy

The FAA is publishing the full text of the current Policy Regarding Airport Rates and Charges, which has been in effect since the most recent amendment of the policy on July 14, 2008, as follows:

Policy Regarding Airport Rates and Charges

Introduction

It is the fundamental position of the Department that the issue of rates and charges is best addressed at the local level by agreement between users and airports. The Department is adopting this Policy Statement on the standards applicable to airport fees imposed for aeronautical use of the airport to provide guidance to airport proprietors and aeronautical users, to encourage direct negotiation between these parties, to minimize the need for direct Federal intervention to resolve differences over airport fees and to establish the standards which the Department will apply in addressing airport fee disputes under 49 U.S.C., 47129 and in addressing questions of airport proprietors' compliance with Federal requirements governing airport fees.

Applicability of the Policy

A. Scope of Policy

Under the terms of grant agreements administered by FAA for airport improvement, all aeronautical users are entitled to airport access on fair and reasonable terms without unjust discrimination. Therefore, the Department considers that the principles and guidance set forth in this policy statement apply to all aeronautical uses of the airport. The Department recognizes, however, that airport proprietors may use different mechanisms and methodologies to establish fees for different facilities, e.g., for the airfield and terminal area, and for different aeronautical users, e.g., air carriers and fixed-base operators. Various elements of the policy reflect these differences. In addition, the Department will take these differences into account if we are called upon to resolve a dispute over aeronautical fees or otherwise consider whether an airport sponsor is in compliance with its obligation to provide access on fair and reasonable terms without unjust discrimination.

B. Aeronautical Use and Users

The Department considers the aeronautical use of an airport to be any activity that involves, makes possible, is required for the safety of, or is otherwise directly related to, the operation of aircraft. Aeronautical use includes services provided by air carriers related directly and substantially to the movement of passengers, baggage, mail and cargo on the airport. Persons, whether individuals or businesses, engaged in aeronautical uses involving the operation of aircraft, or providing flight support directly related to the operation of aircraft, are considered to be aeronautical users.

Conversely, the Department considers that the operation by U.S. or foreign air carriers of facilities such as a reservations center, headquarters office, or flight kitchen on an airport does not constitute an aeronautical use subject to the principles and guidance contained in this policy statement with respect to reasonableness and unjust discrimination. Such facilities need not be located on an airport. A carrier's decision to locate such facilities is based on the negotiation of a lease or sale of property. Accordingly, the Department relies on the normal forces of competition for nonaeronautical commercial or industrial property to assure that fees for such property are not excessive.

C. Applicability of § 113 of the FAA Authorization Act of 1994

Section 113 of the Federal Aviation Authorization Act of 1994 ("Authorization Act"), 49 U.S.C. 47129, directs the Secretary of Transportation to issue a determination on the reasonableness of certain fees imposed on air carriers and foreign air carriers in response to carrier complaints or a request for determination by an airport proprietor. Section 47129 further directs the Secretary to publish final regulations, policy statements, or guidelines establishing procedures for deciding cases under § 47129 and the standards to be used by the Secretary in determining whether a fee is reasonable. Section 47129 also provides for the issuance of credits or refunds in the event that the Secretary determines a fee is unreasonable after a complaint is filed. Section 47129(e) excludes from the applicability of § 47129 a fee imposed pursuant to a written agreement with air carriers or foreign air carriers, a fee imposed pursuant to a financing agreement or covenant entered into before the date of enactment of the statute (August 23, 1994), and an existing fee not in dispute on August 23, 1994. Section 47129(f) further provides that § 47129 shall not adversely affect the rights of any party under an existing airport agreement with an air carrier or foreign air carrier or the ability of an airport to meet its obligations under a financing agreement or covenant that is in effect on August 23, 1994.

The Department does not interpret § 47129 to repeal or narrow the scope of the basic requirement that fees imposed on all aeronautical users be reasonable and not unjustly discriminatory or to narrow the obligation on the Secretary to receive satisfactory assurances that, inter alia, airport sponsors will provide access on reasonable terms before approving Airport Improvement Program ("AIP") grants. Moreover, the Department does not interpret Sections 47129(e) and (f) to preclude the Department from adopting policy guidance to carry out the Department's statutory obligation to assure that aeronautical fees are being imposed at AIP-funded airports in a manner that is consistent with the obligation to provide airport access on reasonable terms.

Therefore, the Department will apply the policy guidance in all cases in which we are called upon to determine if an airport sponsor is carrying out its obligation to make the airport available on reasonable terms. However, a dispute that is not subject to processing under the expedited procedures mandated by

§ 47129, including a dispute over matters described by § 47129 (e) and (f), will be processed by FAA under procedures applicable to airport compliance matters in general. In considering such a dispute, FAA's role is to determine whether the airport proprietor is in compliance with its grant obligations and statutory obligations relating to airport fees. The FAA proceeding is not intended to provide a mechanism for adjudicating the respective rights of the parties to a fee dispute.

In addition, the Department will not entertain a complaint about the reasonableness of a fee set by agreement filed by a party to the agreement setting the disputed fee. In the case of a complaint about the reasonableness of a fee set by agreement filed by an aeronautical user who is not a party to the agreement, the Department may take into account the existence of an agreement between air carriers or foreign air carriers, and the airport proprietor, in making a determination on the complaint.

Further, FAA will not ordinarily investigate the reasonableness of a general aviation airport's fees absent evidence of a progressive accumulation of surplus aeronautical revenues.

D. Components of Airfield

The Department considers the airfield assets to consist of ramps or aprons not subject to preferential or exclusive lease or use agreements, runways, taxiways, and land associated with these facilities. The Department also considers the airfield to include land acquired for the purpose of assuring land-use compatibility with the airfield, if the land is included in the rate base associated with the airfield under the provisions of this policy.

Principles Applicable to Airport Rates and Charges

1. In general, the Department relies upon airport proprietors, aeronautical users, and the market and institutional arrangements within which they operate, to ensure compliance with applicable legal requirements. Direct Federal intervention will be available, however, where needed.

2. Rates, fees, rentals, landing fees, and other service charges ("fees") imposed on aeronautical users for aeronautical use of airport facilities ("aeronautical fees") must be fair and reasonable.

3. Aeronautical fees may not unjustly discriminate against aeronautical users or user groups.

4. Airport proprietors must maintain a fee and rental structure that in the

circumstances of the airport makes the airport as financially self-sustaining as possible.

5. In accordance with relevant Federal statutory provisions governing the use of airport revenue, airport proprietors may expend revenue generated by the airport only for statutorily allowable purposes.

6. Fees imposed on international operations must also comply with the international obligations of the United States, which include the requirements that the fees be just, reasonable, not unjustly discriminatory, equitably apportioned among categories of users, no less favorable to foreign airlines than to U.S. airlines, and not in excess of the full cost to the competent charging authorities of providing the facilities and services efficiently and economically at the airport or within the airport system.

Local Negotiation and Resolution

1. In general, the Department relies upon airport proprietors, aeronautical users, and the market and institutional arrangements within which they operate, to ensure compliance with applicable legal requirements. Direct Federal intervention will be available, however, where needed.

1.1 The Department encourages direct resolution of differences at the local level between aeronautical users and the airport proprietor. Such resolution is best achieved through adequate and timely consultation between the airport proprietor and the aeronautical users about airport fees.

1.1.1 Airport proprietors should consult with aeronautical users well in advance, if practical, of introducing significant changes in charging systems and procedures or in the level of charges. The proprietor should provide adequate information to permit aeronautical users to evaluate the airport proprietor's justification for the change and to assess the reasonableness of the proposal. For consultations to be effective, airport proprietors should give due regard to the views of aeronautical users and to the effect upon them of changes in fees. Likewise, aeronautical users should give due regard to the views of the airport proprietor and the financial needs of the airport.

1.1.2 To further the goal of effective consultation, Appendix 1 of this policy statement contains a description of information that the Department considers would be useful to the U.S. and foreign air carriers and other aeronautical users to permit meaningful consultation and evaluation of a proposal to modify fees.

1.1.3 Airport proprietors should consider the public interest in establishing airport fees, and aeronautical users should consider the public interest in consulting with airports on setting such fees.

1.1.4 Airport proprietors and aeronautical users should consult and make a good-faith effort to reach agreement. Absent agreement, airport proprietors are free to act in accordance with their proposals, subject to review by the Secretary or the Administrator on complaint by the user or, in the case of fees subject to 49 U.S.C. 47129, upon request by the airport operator, or, in unusual circumstances, on the Department's initiative.

1.1.5 To facilitate local resolution and reduce the need for direct Federal intervention to resolve differences over aeronautical fees, the Department encourages airport proprietors and aeronautical users to include alternative dispute resolution procedures in their lease and use agreements.

1.1.6 Any newly established fee or fee increase that is the subject of a complaint under 49 U.S.C. 47129 that is not dismissed by the Secretary must be paid to the airport proprietor under protest by the complainant. Unless the airport proprietor and complainant agree otherwise, the airport proprietor will obtain a letter of credit, or surety bond, or other suitable credit instrument in accordance with the provisions of 49 U.S.C. 47129(d). Pending issuance of a final order determining reasonableness, an airport proprietor may not deny a complainant currently providing air service at the airport reasonable access to airport facilities or services, or otherwise interfere with that complainant's prices, routes, or services, as a means of enforcing the fee, if the complainant has complied with the requirements for payment under protest.

1.2 Where airport proprietors and aeronautical users have been unable, despite all reasonable efforts, to resolve disputes between them, the Department will act to resolve the issues raised in the dispute.

1.2.1 In the case of a fee imposed on one or more U.S. air carriers or foreign air carriers, the Department will issue a determination on the reasonableness of the fee upon the filing of a written request for a determination by the airport proprietor or, if the Department determines that a significant dispute exists, upon the filing of a complaint by one or more U.S. air carriers or foreign air carriers, in accordance with 49 U.S.C. 47129 and implementing regulations. Pursuant to the provisions of 49 U.S.C. 47129, the Department may only determine whether a fee is

reasonable or unreasonable, and may not set the level of the fee.

1.2.2 The Department will first offer its good offices to help parties reach a mutually satisfactory outcome in a timely manner. Prompt resolution of these disputes is always desirable since extensive delay can lead to uncertainty for the public and a hardening of the parties' positions. U.S. air carriers and foreign air carriers may request the assistance of the Department in advance of or in lieu of the formal complaint procedure described in 1.2.1; however, the 60-day period for filing a complaint under § 47129 shall not be extended or tolled by such a request.

1.2.3 In the case of fees imposed on other aeronautical users, where negotiations between the parties are unsuccessful and a complaint is filed alleging that airport fees violate an airport proprietor's Federal grant obligations, the Department will, where warranted, exercise the agency's broad statutory authority to review the legality of those fees and to issue such determinations and take such actions as are appropriate based on that review. Other aeronautical users may also request the assistance of the Department in advance of, or in lieu of, the filing of a formal complaint with FAA.

1.3 Airport proprietors must retain the ability to respond to local conditions with flexibility and innovation. An airport proprietor is encouraged to achieve consensus and agreement with its aeronautical users before implementing a practice that would represent a major departure from this guidance. However, the requirements of any law, including the requirements for the use of airport revenue, may not be waived, even by agreement with the aeronautical users.

Fair and Reasonable Fees

2. Rates, fees, rentals, landing fees, and other service charges ("fees") imposed on aeronautical users for the aeronautical use of the airport ("aeronautical fees") must be fair and reasonable.

2.1 Federal law does not require a single approach to airport rate-setting. Fees may be set according to a "residual" or "compensatory" rate-setting methodology, or any combination of the two, or according to another rate-setting methodology, as long as the methodology used is applied consistently to similarly situated aeronautical users and conforms with the requirements of this policy. Airport proprietors may set fees for aeronautical use of airport facilities by ordinance, statute or resolution, regulation, or agreement.

2.1.1 Aeronautical users may receive a cross-credit of nonaeronautical revenues only if the airport proprietor agrees. Agreements providing for such cross-crediting are commonly referred to as "residual agreements" and generally provide a sharing of nonaeronautical revenues with aeronautical users. The aeronautical users may in turn agree to assume part or all of the liability for nonaeronautical costs. An airport proprietor may cross-credit nonaeronautical revenues to aeronautical users even in the absence of such an agreement, but an airport proprietor may not require aeronautical users to cover losses generated by nonaeronautical facilities except by agreement.

2.1.2 In other situations, an airport proprietor assumes all liability for airport costs and retains all airport revenues for its own use in accordance with Federal requirements. This approach to airport rate-setting is generally referred to as the compensatory approach.

2.1.3 Airports frequently adopt rate-setting systems that employ elements of both approaches.

2.1.4 An airport proprietor may impose a two-part landing fee consisting of a combination of a per-operation charge and a weight-based charge provided that (1) the two-part fee reasonably allocates costs to users on a rational and economically justified basis; and (2) the total revenues from the two-part landing fee do not exceed the allowable costs of the airfield.

(a) The proportionately higher costs per passenger for aircraft with fewer seats that will result from the per-operation component of a two-part fee may be justified by the effect of the fee on congestion and operating delays and the total number of passengers accommodated during congested hours.

(b) An airport proprietor may exempt flights subsidized under the Essential Air Service Program from the general application of a 2-part landing fee, and instead charge those flights a landing fee that would have been charged if a conventional weight-based fee was in effect. To the extent an exemption reduces total airfield fees recovered, the difference may not be recovered by increasing charges to other operators currently operating at the airport.

2.2 Revenues from fees imposed for use of the airfield ("airfield revenues") may not exceed the costs to the airport proprietor of providing airfield services and airfield assets currently in aeronautical use unless:

(a) Otherwise agreed to by the affected aeronautical users; or

(b) The fee includes charges in accordance with paragraph 2.5.3 or paragraph 2.5.4(a), and there is a corresponding reduction in fees for users that would otherwise have paid those charges.

2.3 The "rate base" is the total of all costs of providing airfield facilities and services to aeronautical users (which may include a share of public-use roadway costs allocated to the airfield in accordance with this policy) that may be recovered from aeronautical users through fees charged for providing airfield aeronautical services and facilities ("airfield fees"). Airport proprietors must employ a reasonable, consistent, and "transparent" (i.e., clear and fully justified) method of establishing the rate base and adjusting the rate base on a timely and predictable schedule.

2.4 [Reserved]

2.4.1 [Reserved]

2.4.2 Airport proprietors may include reasonable environmental costs in the rate base to the extent that the airport proprietor incurs a corresponding actual expense. All revenues received based on the inclusion of these costs in the rate base are subject to Federal requirements on the use of airport revenue. Reasonable environmental costs include, but are not necessarily limited to, the following:

(a) The costs of investigating and remediating environmental contamination caused by airfield operations at the airport at least to the extent that such investigation or remediation is required by or consistent with local, state or Federal environmental law, and to the extent such requirements are applied to other similarly situated enterprises.

(b) the cost of mitigating the environmental impact of an airport development project (if the development project is one for which costs may be included in the rate base), at least to the extent that these costs are incurred in order to secure necessary approvals for such projects, including but not limited to approvals under the National Environmental Policy Act and similar state statutes;

(c) the costs of aircraft noise abatement and mitigation measures, both on and off the airport, including but not limited to land acquisition and acoustical insulation expenses, to the extent that such measures are undertaken as part of a comprehensive and publicly-disclosed airport noise compatibility program; and

(d) the costs of insuring against future liability for environmental contamination caused by current airfield activities. Under this provision,

the costs of self-insurance may be included in the rate base only to the extent that they are incurred pursuant to a self-insurance program that conforms to applicable standards for self-insurance practices.

2.4.3 Airport proprietors are encouraged to establish fees with due regard for economy and efficiency.

2.4.4 The airport proprietor may include in the rate base amounts needed to fund debt service and other reserves and to meet cash flow requirements as specified in financing agreements or covenants (for facilities in use or in accordance with paragraph 2.5.3), including, but not limited to, reasonable amounts to meet debt-service coverage requirements; to fund cash reserves to protect against the risks of cash-flow fluctuations associated with normal airfield operations; and to fund reasonable cash reserves to protect against other contingencies.

2.4.5 Unless otherwise agreed by aeronautical users, the airport proprietor must allocate capital and operating costs among cost centers in accordance with the following guidance, which is based on the principle of cost causation:

(a) Costs of airfield facilities and services directly used by the aeronautical users may be fully included in the rate base, in a manner consistent with this policy. For example, the capital cost of a runway may be included in the rate base used to establish landing fees.

(b) Costs of airport facilities and services used for both aeronautical and nonaeronautical uses (shared costs) may be included in the rate base if the facility or service in question supports the airfield activity reflected in that rate base. The portion of shared costs allocated to aeronautical users and among aeronautical uses should not exceed an amount that reflects the respective aeronautical purposes and proportionate aeronautical uses of the facility in relation to each other and in relation to the nonaeronautical use of the facility, and must be allocated by a reasonable, "transparent" and not unjustly discriminatory methodology. Aeronautical users may not be allocated all costs of facilities or services that are used by both aeronautical and nonaeronautical users unless they agree to that allocation. Likewise, the airfield may not be allocated all of the aeronautical share of commonly-used facilities or services, unless the airfield is the only aeronautical use the facility or service supports.

2.5 Airport proprietors must comply with the following practices in establishing the rate base, provided, however, that one or more aeronautical

users may agree to a rate base that deviates from these practices in the establishment of those users' fees.

2.5.1 [Reserved]

2.5.2 When assets in the rate-base have different costs, the airport proprietor may combine the costs of comparable assets to develop a single cost basis for those assets.

2.5.3 The proprietor of a congested airport may include in the rate-base used to determine airfield charges during congested hours a portion of the costs of an airfield project under construction so long as (1) all planning and environmental approvals have been obtained for the project; (2) the proprietor has obtained financing for the project; (3) construction has commenced on the project; and (4) the added costs for current operators would have the effect of reducing or preventing congestion and operating delays at that airport.

(a) The airport proprietor must deduct from the total costs of the projects any principal and interest collected during the period of construction in determining the amount of project costs to be capitalized and amortized once the project is commissioned and put in service.

(b) The amount of project costs included in current charges may not exceed an amount corresponding to costs actually incurred during the construction period, calculated in accordance with a commercially reasonable amortization period based on the expected term for the permanent financing of the project.

2.5.4 The rate base of an airport may include costs associated with another airport currently in use only if: (1) The proprietor of the first airport is also the proprietor of the other airport; (2) the other airport is currently in use; and (3) the costs of the other airport to be included in the first airport's rate base are reasonably related to the aviation benefits that the other airport provides or is expected to provide to the aeronautical users of the first airport.

(a) Element no. 3 above will be presumed to be satisfied if:

(1) The other airport is designated as a reliever airport for the first airport in the FAA's National Plan of Integrated Airport Systems ("NPIAS"); or

(2) The first airport is a congested airport; the other airport has been designated by FAA as a secondary airport serving the community, metropolitan area or region served by the first airport; and adding airfield costs of the second airport to the rate base of the first airport during congested hours would have the effect of reducing

or preventing congestion and operating delays at that airport in those hours.

(b) In the case of a methodology of charging for a system of airports that is in place on the effective date of this policy, the Department will consider an airport proprietor's claim that the methodology is reasonable, even if all three elements are not satisfied.

(c) If an airport proprietor closes an operating airport as part of an approved plan for the construction and opening of a new airport, reasonable costs of disposition of the closed airport facility may be included in the rate base of the new airport, to the extent that such costs exceed the proceeds from the disposition. The Department would not ordinarily consider redevelopment costs to be a reasonable cost of disposition.

(d) Pending reasonable disposition of the closed airport, the airport proprietor may charge airfield users at the new airport for reasonable maintenance costs of the old airport, provided that those costs are refunded or credited-back to those users upon the receipt of the proceeds from a whole or partial disposition.

(e) Costs of the second airport that may be included in the rate base of the first airport are limited to customary airfield cost center charges. The total airfield revenue recovered from the users of both airports cannot exceed the total allowable costs of the two airports combined.

2.6 [Reserved]

2.6.1 Reasonable methodologies may include, but are not limited to, historic cost valuation, direct negotiation with aeronautical users, or objective determinations of fair market value.

2.6.2 If an airport proprietor determines fees for such other facilities on the basis of HCA costs, the airport proprietor must follow the guidance set forth in paragraph 2.4.5 for the allocation of shared costs.

2.7 At all times, airport proprietors must comply with the following practices:

2.7.1 Indirect costs may not be included in the fees charged for aeronautical use of the airport unless they are based on a reasonable, "transparent" cost allocation formula calculated consistently for other units or cost centers within the control of the airport sponsor.

2.7.2 The costs of airport development or planning projects paid for with Federal Government grants and contributions or passenger facility charges (PFCs) may not be included in the fees charged for aeronautical use of the airport.

(a) In the case of a PFC-funded project for terminal development, for gates and related areas, or for a facility that is occupied by one or more carriers on an exclusive or preferential use basis, the fees paid to use those facilities shall be no less than the fees charged for similar facilities that were not financed with PFC revenue.

Prohibition on Unjust Discrimination

3. Aeronautical fees may not unjustly discriminate against aeronautical users or user groups.

3.1 The airport proprietor must apply a consistent methodology in establishing fees for comparable aeronautical users of the airport. When the airport proprietor uses a cost-based methodology, aeronautical fees imposed on any aeronautical user or group of aeronautical users may not exceed the costs allocated to that user or user group under a cost allocation methodology adopted by the airport proprietor that is consistent with this guidance, unless aeronautical users otherwise agree.

3.1.1 The prohibition on unjust discrimination does not prevent an airport proprietor from making reasonable distinctions among aeronautical users (such as signatory and nonsignatory carriers) and assessing higher fees on certain categories of aeronautical users based on those distinctions (such as higher fees for nonsignatory carriers, as compared to signatory carriers).

3.2 A properly structured peak pricing system that allocates limited resources using price during periods of congestion will not be considered to be unjustly discriminatory. An airport proprietor may, consistent with the policies expressed in this policy statement, establish fees that enhance the efficient utilization of the airport.

3.3 Relevant provisions of the Convention on International Civil Aviation (Chicago Convention) and many bilateral aviation agreements specify, inter alia, that charges imposed on foreign airlines must not be unjustly discriminatory, must not be higher than those imposed on domestic airlines engaged in similar international air services and must be equitably apportioned among categories of users. Charges to foreign air carriers for aeronautical use that are inconsistent with these principles will be considered unjustly discriminatory or unfair and unreasonable.

3.4 Allowable costs—costs properly included in the rate base—must be allocated to aeronautical users by a transparent, reasonable, and not unjustly discriminatory rate-setting methodology. The methodology must be

applied consistently and cost differences must be determined quantitatively, when practical.

3.4.1 Common costs (costs not directly attributable to a specific user group or cost center) must be allocated according to a reasonable, transparent and not unjustly discriminatory cost allocation methodology that is applied consistently, and does not require any aeronautical user or user group to pay costs properly allocable to other users or user groups.

Requirement To Be Financially Self-Sustaining

4. Airport proprietors must maintain a fee and rental structure that in the circumstances of the airport makes the airport as financially self-sustaining as possible.

4.1 If market conditions or demand for air service do not permit the airport to be financially self-sustaining, the airport proprietor should establish long-term goals and targets to make the airport as financially self-sustaining as possible.

4.1.1 Airport proprietors are encouraged, when entering into new or revised agreements or otherwise establishing rates, charges, and fees, to undertake reasonable efforts to make their particular airports as self-sustaining as possible in the circumstances existing at such airports.

(a) Absent agreement with aeronautical users, the obligation to make the airport as self-sustaining as possible does not permit the airport proprietor to establish fees for the use of the airfield that exceed the airport proprietor's airfield costs.

(b) For those facilities for which this policy permits the use of fair market value, the Department does not construe the obligation on self-sustainability to compel the use of fair market value to establish fees.

4.1.2 At some airports, market conditions may not permit an airport proprietor to establish fees that are sufficiently high to recover aeronautical costs and sufficiently low to attract and retain commercial aeronautical services. In such circumstances, an airport proprietor's decision to charge rates that are below those needed to achieve self-sustainability in order to assure that services are provided to the public is not inherently inconsistent with the obligation to make the airport as self-sustaining as possible in the circumstances.

4.2 In establishing new fees, and generating revenues from all sources, airport owners and operators should not seek to create revenue surpluses that exceed the amounts to be used for

airport system purposes and for other purposes for which airport revenues may be spent under 49 U.S.C. 47107(b)(1), including reasonable reserves and other funds to facilitate financing and to cover contingencies. While fees charged to nonaeronautical users may exceed the costs of service to those users, the surplus funds accumulated from those fees must be used in accordance with § 47107(b).

4.2.1 The Department assumes that the limitation on the use of airport revenue and effective market discipline for aeronautical services and facilities other than the airfield will be effective in holding aeronautical revenues, over time, to the airport proprietor's costs of providing aeronautical services and facilities, including reasonable capital costs. However, the progressive accumulation of substantial amounts of surplus aeronautical revenue may warrant an FAA inquiry into whether aeronautical fees are consistent with the airport proprietor's obligations to make the airport available on fair and reasonable terms.

Requirements Governing Revenue Application and Use

5. In accordance with relevant Federal statutory provisions governing the use of airport revenue, airport proprietors may expend revenue generated by the airport only for statutorily allowable purposes.

5.1 Additional information on the statutorily allowed uses of airport revenue is contained in separate guidance published by FAA pursuant to § 112 of the FAA Authorization Act of 1994, which is codified at 49 U.S.C. 47107(l).

5.2 The progressive accumulation of substantial amounts of airport revenues may warrant an FAA inquiry into the airport proprietor's application of revenues to the local airport system.

Congested Airports

6. Congested Airports

(a) The Department considers a currently congested airport to be—

(1) An airport at which the number of operating delays is one per cent or more of the total operating delays at the 55 airports with the highest number of operating delays; or

(2) An airport identified as congested by FAA listed in table 1 of FAA's Airport Capacity Benchmark Report 2004, or the most recent version of the Airport Capacity Benchmark Report.

(b) The Department considers an airport to be a future congested airport if an airport is forecasted to meet a defined threshold level of congestion reported in the Future Airport Capacity

Task 2 study entitled *Capacity Needs in the National Airspace System 2007–2025: An analysis of Airports and Metropolitan Area Demand and Operational Capacity in the Future* (FACT 2 Report), or any update to that report that FAA may publish from time-to-time.

(c) A congested hour is an hour during which demand exceeds average runway capacity resulting in volume-related delays, or is anticipated to do so.

6.1 Because charges provided in paragraphs 2.1.4, 2.5.3 and 2.5.4 to address congestion can result in higher fees for some or all operators, it is especially important for airport operators proposing such charges to provide carriers in advance the information listed in Appendix 1, with special emphasis on data, analysis and forecasts used to justify the charges.

6.2 The proprietor of a future congested airport may adopt measures to address congestion in accordance with paragraphs 2.1.4, 2.5.3 and 2.5.4 of this policy, if the measures will not take effect or have any effect on airfield charges until a time when the airport meets the definition of a congested airport in paragraph 6(a) or is anticipated to do so. This kind of measure would typically identify the specific condition, *e.g.*, operating delays that regularly exceed a certain level at the airport that would trigger the implementation of the special charges to address congestion.

6.3 An airport proprietor may exempt flights subsidized under the Essential Air Service Program from charges imposed under paragraphs 2.5.3 and 2.5.4 of this policy.

Issued in Washington, DC, on August 23, 2013.

Susan L. Kurland,

Assistant Secretary for Aviation and International Affairs.

Christa Fornarotto,

Associate Administrator for Airports, Federal Aviation Administration,

Appendix 1—Information for Aeronautical User Charges Consultations

The Department of Transportation ordinarily expects the following information to be available to aeronautical users in connection with consultations over changes in airport rates and charges:

1. Historic Financial Information covering two fiscal years prior to the current year including, at minimum, a profit and loss statement, balance sheet and cash flow statement for the airport implementing the charges, and any financial reports prepared by the airport proprietor to satisfy the provisions of 49 U.S.C. 47107(a)(19) and 47107(k).

2. Justification. Economic, financial and/or legal justification for changes in the charging methodology or in the level of aeronautical rates and charges at the airport. Airports should provide information on the aeronautical costs they are including in the rate base.

3. Traffic Information. Annual numbers of terminal passengers and aircraft movements for each of the two preceding years.

4. Planning and Forecasting Information.

(a) To the extent applicable to current or proposed fees, the long-term airport strategy setting out long-term financial and traffic forecasts, major capital projects and capital expenditure, and particular areas requiring strategic action. This material should include any material provided for public or government reviews of major airport developments, including analyses of demand and capacity and expenditure estimates.

(b) Accurate, complete information specific to the airport for the current and the forecast year, including the current and proposed budgets, forecasts of airport charges revenue, the projected number of landings and passengers, expected operating and capital expenditures, debt service payments, contributions to restricted funds, or other required accounts or reserves.

(c) To the extent the airport uses a residual or hybrid charging methodology, a description of key factors expected to affect commercial or other nonaeronautical revenues and operating costs in the current and following years.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Membership in the National Parks Overflights Advisory Group Aviation Rulemaking Committee

AGENCY: Federal Aviation Administration, Transportation.

ACTION: Notice.

SUMMARY: By Federal Register notice (See 78 FR 42997, July 18, 2013) the National Park Service (NPS) and the Federal Aviation Administration (FAA) invited interested persons to apply to fill two upcoming openings on the National Parks Overflights Advisory Group (NPOAG) Aviation Rulemaking Committee (ARC). The notice invited interested persons to apply to fill one vacancy representing commercial air tour operators and one vacancy representing environmental concerns. This notice informs the public of the person selected to fill the vacancy for the commercial air tour operator seat. No selection has been made for the vacancy representing environmental concerns.

FOR FURTHER INFORMATION CONTACT: Keith Lusk, Special Programs Staff,

Federal Aviation Administration, Western-Pacific Region Headquarters, P.O. Box 92007, Los Angeles, CA 90009–2007, telephone: (310) 725–3808, email: Keith.Lusk@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181. The Act required the establishment of the advisory group within 1 year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

In accordance with the Act, the advisory group provides “advice, information, and recommendations to the Administrator and the Director—

(1) On the implementation of this title [the Act] and the amendments made by this title;

(2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) On other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.”

Membership

The current NPOAG ARC is made up of one member representing general aviation, three members representing the commercial air tour industry, four members representing environmental concerns, and two members representing Native American interests. Current members of the NPOAG ARC are as follows:

Heidi Williams representing general aviation; Alan Stephen and Mark Francis representing commercial air tour operators with one open seat; Greg Miller, Michael Sutton, and Dick Hingson representing environmental interests with one open seat; and Rory Majenty and Martin Begaye representing Native American tribes.