MUSKEGON COUNTY BOARD OF COMMISSIONERS
MUSKEGON COUNTY, MICHIGAN

AGENDA

TRANSPORTATION COMMITTEE
Hall of Justice
990 Terrace
May 21, 2019 – 3:30 p.m.

Rillastine R. Wilkins, Chair
Gary Foster, Vice-Chair

1. Call to Order

2. Roll Call

3. Approval of Minutes of April 23, 2019

4. Informational Items
   - Transit Operations Reports – April 2019
   - Airport Operations Report – April 2019

5. Public Comment (on an agenda item)

6. Items for Consideration
   - TR19/05-16 Airport Restructure the Airport Advisory Committee and change its name to Airport Development Committee.
   - TR19/05-17 Airport Approve MDOT 2019 Air Service Awareness Grant.

7. Old Business

8. New Business

9. Public Comment

10. Adjournment

PUBLIC COMMENT
Persons may address the Commission during the time set aside for Public Comment or at any time by suspension of the rules. All persons must address the commission and state their name for the record. Comments shall be limited to two (2) minutes for each participant, unless time is extended prior to the public comment period by a vote of a majority of the commission.

AMERICAN DISABILITY ACT POLICY FOR ACCESS TO OPEN MEETINGS OF THE COUNTY BOARD OF COMMISSIONERS AND ANY OF ITS COMMITTEES OR SUB-COMMITTEES
The County of Muskegon will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities who want to attend the meeting, upon twenty-four hour notice to the County of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the County of Muskegon by writing or calling the following: Administration, 990 Terrace Street, Muskegon, MI, 49442 (231) 724-6520.
April 23, 2019

CALL TO ORDER

The Transportation Committee meeting was called to order by Chair, Rillastine Wilkins, at 3:35 pm.

ROLL CALL

Present: Gary Foster, Marcia Hovey-Wright, Zach Lahrng, Kenneth Mahoney, Charles Nash, Robert Scolnik, John Snider, Rillastine R. Wilkins

Excused: Susie Hughes

Also Present: Mark Eisenbarth, County Administrator, Doug Hughes, William Hughes, PLLC, Rita Bierman, Airport Administrative Analyst

APPROVAL OF MINUTES

Moved by Commissioner Foster, supported by Commissioner Mahoney, to approve the minutes of the March 19, 2019 meeting. MOTION CARRIED

INFORMATIONAL ITEMS

Moved by Commissioner Foster, supported by Commissioner Snider, to accept and place on file the Informational Items. MOTION CARRIED

PUBLIC COMMENT (on an agenda item)

None
ITEMS FOR CONSIDERATION

TR19/04-15  It was moved by Commissioner Nash, supported by Commissioner Snider to authorize the Muskegon Area Transit System to publish the public notice regarding the FY2019 Federal Operating and Capital Assistance application and to authorize staff to execute the electronic grant application if there is no request for a public hearing.

MOTION CARRIED

OLD BUSINESS

None

NEW BUSINESS

None

PUBLIC COMMENT (on a new topic)

None

ADJOURNMENT

There being no further business to come before the Transportation Committee, the meeting adjourned at 3:42 pm.
### COUNTY OF MUSKEGON

**MUSKEGON AREA TRANSIT SYSTEM**  
**OPERATIONS REPORT**  
**APRIL 2019**

<table>
<thead>
<tr>
<th>MATS PASSENGER ACTIVITY</th>
<th>MONTH TO MONTH</th>
<th>YEAR TO DATE</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>2019</td>
<td>2018</td>
</tr>
<tr>
<td>Fixed Route Services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Linehaul Service</td>
<td>41,616</td>
<td>35,882</td>
</tr>
<tr>
<td>MARC - New Service</td>
<td>728</td>
<td>628</td>
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<tr>
<td>Fixed Route Total</td>
<td>42,344</td>
<td>36,510</td>
</tr>
<tr>
<td>Demand/Response Services</td>
<td>1,632</td>
<td>2,031</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td>43,976</td>
<td>38,541</td>
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</tbody>
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| DAILY AVERAGE            |      |        |        |      |        |        |
| Fixed Route Services     |      |        |        |      |        |        |
| Linehaul Service         | 1,601 | 1,435  | 12%    | 1,448  | 1,525  | -5%   |
| MARC - New Service       | 33    | 31     | 5%     | 29     | 27     | 5%    |
| Demand Response Services | 63    | 81     | -23%   | 62     | 81     | -23%  |
| **TOTALS**               | 43,976 | 38,541 | 14%    | 156,298 | 166,034 | -6%   |

| PASSENGERS PER HOUR       |      |        |        |      |        |        |
| Fixed Route Services      |      |        |        |      |        |        |
| Linehaul Service          | 11.9 | 10.7   | 11%    | 10.9  | 11.5   | -5%   |
| MARC - New Service        | 2.9  | 2.8    | 6%     | 2.6   | 2.4    | 5%    |
| Fixed Route Average       | 11.3 | 10.2   | 11%    | 10.4  | 10.9   | -5%   |
| Demand Response Services  | 2.3  | 2.3    | 0%     | 2.2   | 2.2    | 2%    |

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<tr>
<th>NUMBER OF DAYS USED TO CALCULATE DATA</th>
<th>MONTHLY</th>
<th>ANNUAL</th>
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<tbody>
<tr>
<td>Linehaul Service</td>
<td>26</td>
<td>25</td>
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<tr>
<td>MARC - New Service</td>
<td>22</td>
<td>20</td>
</tr>
<tr>
<td>Demand Response Services</td>
<td>26</td>
<td>25</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td>102</td>
<td>102</td>
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<th>NUMBER OF REVENUE HOURS USED TO CALCULATE DATA</th>
<th>MONTHLY</th>
<th>ANNUAL</th>
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<tr>
<td>Linehaul Service</td>
<td>3506</td>
<td>3353</td>
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<tr>
<td>MARC - New Service</td>
<td>249</td>
<td>227</td>
</tr>
<tr>
<td>Demand Response Services</td>
<td>717</td>
<td>889</td>
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<tr>
<td><strong>TOTALS</strong></td>
<td>13573</td>
<td>13560</td>
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Page 4
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<tr>
<th></th>
<th>SKYWEST TOTAL PASSENGER ACTIVITY</th>
<th>EXECUTIVE AIR OPERATIONS</th>
<th>CHARTER OPERATIONS</th>
<th>AIRCRAFT OPERATIONS</th>
<th>ALL CARGO</th>
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<tbody>
<tr>
<td></td>
<td>Avail Seats</td>
<td>Comm Pns</td>
<td>Load Factor</td>
<td>Revenue Enplaned</td>
<td>Non-Revenue Enplaned</td>
</tr>
<tr>
<td>January</td>
<td>4,800</td>
<td>1,855</td>
<td>39%</td>
<td>1,035</td>
<td>101</td>
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<tr>
<td>February</td>
<td>4,850</td>
<td>2,075</td>
<td>43%</td>
<td>1,146</td>
<td>115</td>
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<tr>
<td>March</td>
<td>6,200</td>
<td>3,023</td>
<td>49%</td>
<td>1,686</td>
<td>88</td>
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<tr>
<td>April</td>
<td>5,550</td>
<td>2,328</td>
<td>42%</td>
<td>1,037</td>
<td>103</td>
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<tr>
<td>May</td>
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<td>November</td>
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<tr>
<td>December</td>
<td></td>
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<tr>
<td>YTD Totals</td>
<td>21,400</td>
<td>9,281</td>
<td>43%</td>
<td>4,904</td>
<td>407</td>
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LOAD FACTOR BASED UPON REVENUE PASSENGERS ONLY
REQUEST FOR BOARD CONSIDERATION-COUNTY OF MUSKEGON

COMMITTEE TRANSPORTATION

REQUESTING DEPARTMENT AIRPORT

COMMITTEE DATE 05/21/2019

REQUESTOR SIGNATURE ROBERT M. LUKENS

BUDGETED X NON-BUDGETED PARTIALLY BUDGETED

SUMMARY OF REQUEST (GENERAL DESCRIPTION, FINANCING, OTHER OPERATIONAL IMPACT, POSSIBLE ALTERNATIVES)
Airport Advisory Committee leadership and County Administration discussed and recommends restructuring the committee to enhance the airport's objective of operating like a business to reduce the County's general fund obligation and leverage the airport's assets for local and regional economic growth and development.

The proposed restructuring would include business and community leaders with a wider range of regional perspectives and professional-level support for airport planning efforts and could include up to ten (10) members. It is recommended the committee focus on engaging regional leadership to build the committee's membership to include:

1. County Representative
2. City of Norton Shores Representative
3. Transportation: An individual who represents a mode of transportation other than Airport such as the Port of Muskegon or a person involved in air freight/logistics/supply chain management.
4. Financial: An individual representing a local bank, investment, or accounting firm.
5. Airport: An Airport business tenant.
6. Large Local Manufacturer
7. Airline: An individual representing the airline now operating at the airport.
8. Chamber of Commerce: A representative from the Muskegon Lakeshore, White Lake Area, or Grand Haven Area Chambers of Commerce.
9. Ottawa County Representative: businessperson from Grand Haven
10. Northern Catchment Area Representative: businessperson from Ludington or Fremont.

Comments on the proposal were discussed at a County Board Work Session on February 12, 2019, and the proposal reflects the items discussed at the work session.

SUGGESTED MOTION (STATE EXACTLY AS IT SHOULD APPEAR IN THE MINUTES)
Move to restructure the Airport Advisory Committee and change the committee's name to the Airport Development Committee to leverage the airport’s assets for local and regional economic growth and development, and to better engage the business community in the Airport’s mission of serving and growing regional transportation needs and business infrastructure.

ADMINISTRATIVE ANALYSIS (AS APPLICABLE)

HUMAN RESOURCES ANALYSIS:

FINANCE & MANAGEMENT ANALYSIS:

CORPORATE COUNSEL ANALYSIS:

ADMINISTRATOR RECOMMENDATION:

If motion originates from a Statutory Board, Authority or Advisory Committee, please provide the date the motion was approved by that Board/Authority/Committee.

AGENDA DATE: 05/21/2019
AGENDA NO.: TR19/05-16
BOARD DATE: 05/23/2019
PAGE NO.

Revised 6/20/19
Airport Advisory Committee Re-Structuring Plan – DRAFT
(Airport Development Team)
(Renamed the “Airport Development Committee”)

The Airport Advisory Committee leadership discussed and recommends restructuring the committee to enhance the airport’s objective of operating like a business to reduce the County’s general fund burden and aid in the development of the regional economy. The current committee has trouble obtaining a quorum at meetings and provides minimal input on the operation and development of the airport and its services, which indicate the meetings are not necessarily considered a valuable expenditure of time by members.

The proposed restructuring would include business and community leaders with a wider range of regional perspectives and professional-level support for airport planning efforts and could include up to ten (10) members. It is recommended the Committee focus on engaging regional leadership to build the committee’s membership and leverage the airport for local and regional economic growth and development.

The restructuring will be designed to bring industry professionals together to offer advice on many Airport-related topics outside the expertise of airport management and county leadership. We recommend that certain membership qualities be attached to positions in other community organizations, including professionals with business, finance, airline, and project management expertise, rather than appointed positions on the committee that may not directly have an association with the airport.

The restructured committee would provide an opportunity to better connect the airport to the region and the people it can potentially serve within the catchment area, and would work to build additional commercial air and cargo service. The structure should place an emphasis not necessarily on airport operations, but on running the airport like a business and assisting with longer-range planning and development. The committee or subcommittees would meet on a schedule determined by the committee.

The restructured committee would include positions with professional representatives from the following industries serving in the airport’s catchment area, and would be appointed by the County Board of Commissioners:

1) County Representative
2) City of Norton Shores Representative
3) Transportation: An individual who represents a mode of transportation other than Airport such as the Port of Muskegon or a person involved in air freight/logistics/supply chain management.
4) Financial: An individual representing a local bank, investment, or accounting firm.
5) Airport: An Airport business tenant who is open minded to future development and competition on the field.
6) **Large Local Manufacturer:** A firm that clearly understands the community and can provide historical background and share lessons learned.

7) **Airline:** An individual representing the airline now operating at the airport.

8) **Chamber of Commerce:** A representative from the Muskegon Lakeshore, White Lake Area, or Grand Haven Area Chambers of Commerce.

9) **Ottawa County Representative:** A representative from the Ottawa County Board or a Grand Haven businessperson.

10) **Northern Catchment Area Representative:** Businessperson from Ludington or Fremont.

The Muskegon County Community Development Director would be an ex-officio member of the restructured committee.

**Muskegon County Airport Mission:**

The Muskegon County Airport seeks to provide safe and efficient commercial and general aviation services to the general public and private pilots, while serving as an economic development and logistics engine for the West Michigan lakeshore region.

**GOAL:** To assist airport staff in the development of a Strategic Business Plan to create a sustainable business model for infrastructure development and increased utilization of the Muskegon County Airport as a regional asset and transportation option.

**Air Service Subcommittee:**

The Air Service Subcommittee will advise and work with airport staff to increase awareness and utilization of the Muskegon County Airport as a regional asset and transportation option for the region’s customers.

**Airport Development Subcommittee:**

The Airport Development Committee will advise and work with airport staff to build a sustainable business model to increase awareness and utilization of the Muskegon County Airport as a regional economic development asset and transportation option.
REQUEST FOR BOARD CONSIDERATION-COUNTY OF MUSKEGON

<table>
<thead>
<tr>
<th>COMMITTEE</th>
<th>BUDGETED</th>
<th>NON-BUDGETED</th>
<th>PARTIALLY BUDGETED</th>
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<tbody>
<tr>
<td>TRANSPORTATION</td>
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<tr>
<th>REQUESTING DEPARTMENT</th>
<th>COMMITTEE DATE</th>
<th>REQUESTOR SIGNATURE</th>
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<tbody>
<tr>
<td>AIRPORT</td>
<td>05/21/2018</td>
<td>ROBERT M. LUKESENS</td>
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<tr>
<th>SUMMARY OF REQUEST (GENERAL DESCRIPTION, FINANCING, OTHER OPERATIONAL IMPACT, POSSIBLE ALTERNATIVES)</th>
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<tbody>
<tr>
<td>This item seeks approval of the 2019 MDOT Air Service Awareness Grant Contract No. 2019-0507. This grant will provide $10,000 of State Aviation Funds to supplement Airport marketing and promotional efforts to support commercial airline service. MDOT requires the County provide a local match of 10% ($1,112) for a total grant amount of $11,112.00. The required local match is budgeted for in the Airport's FY2019 Budget.</td>
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<tr>
<th>SUGGESTED MOTION (STATE EXACTLY AS IT SHOULD APPEAR IN THE MINUTES)</th>
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<tbody>
<tr>
<td>Move to approve and authorize the Chairman to sign MDOT 2019 Air Service Awareness Grant Contract No. 2019-0507, providing $10,000 of State Aviation Funds for Airport marketing and promotional efforts and requiring a local match of $1,112, and further authorize the Clerk to execute the required resolution.</td>
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<tr>
<th>ADMINISTRATIVE ANALYSIS (AS APPLICABLE)</th>
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<tbody>
<tr>
<td>HUMAN RESOURCES ANALYSIS:</td>
</tr>
<tr>
<td>FINANCE &amp; MANAGEMENT ANALYSIS:</td>
</tr>
</tbody>
</table>

| CORPORATE COUNSEL ANALYSIS:             |
| ADMINISTRATOR RECOMMENDATION:           |

CONCUR

[Signature]

If motion originates from a Statutory Board/Authority or Advisory Committee, please provide the date the motion was approved by that Board/Authority/Committee. 

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<th>AGENDA DATE:</th>
<th>AGENDA NO.:</th>
<th>BOARD DATE:</th>
<th>PAGE NO.</th>
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<td>05/21/2018</td>
<td>TR19/05-17</td>
<td>05/23/2019</td>
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Revised 5/20/19
MICHIGAN AIR SERVICE PROGRAM GRANT CONTRACT

FOR

AIRPORT AUTHORITY OR ELIGIBLE GOVERNMENTAL AGENCY

AIRPORT AWARENESS PROJECTS

This Contract is made and entered into this date of by and between the Michigan Department of Transportation (MDOT) and Muskegon County Board of Commissioners (AGENCY) for the purpose of MDOT assisting the AGENCY with cooperative airport awareness efforts.

The parties agree that:

1. DEFINITIONS

As used in this Contract:

GUIDELINES - Means the Michigan Air Service Program Guidelines, dated November 2016, as approved on November 9, 2016, incorporated herein by reference.

OFFICE - Means the MDOT Office of Aeronautics.

PLAN - Means the cooperative Airport Awareness Activity Plan to be submitted by the AGENCY and approved in writing by MDOT in accordance with the GUIDELINES.

PROJECT - Means the preparation of the PLAN and the performance of the work set forth in the approved PLAN.

2. PURPOSE

This Contract sets forth a grant from MDOT to the AGENCY for the purpose of performing or causing to be performed the PROJECT.
The AGENCY will begin, carry on, and complete the PROJECT with all practical dispatch in a sound, economical, and efficient manner and in accordance with the provisions of this Contract and with all applicable laws.

The AGENCY will initiate and prosecute to completion all proceedings necessary to enable the AGENCY to commit its share of the PROJECT costs at or prior to the time that such funds are needed to meet PROJECT commitments.

3. **FUNDING**

The PROJECT cost participation is estimated to be as shown below:

- Maximum MDOT Funds (90%) .............................................. $10,000.00
- Estimated AGENCY Funds (10%) ........................................ $1,111.00
- *Estimated* Total PROJECT Cost ..................................... $11,111.00

The amount of MDOT funds shown above is MDOT's maximum obligation for funds for the PROJECT. The maximum amount of MDOT funds and/or the percentage share shown herein will not be increased without the award of a prior written amendment to this Contract by the parties. Payments to the AGENCY under this Contract will be subject to the availability of sufficient funds as certified by MDOT.

MDOT funds in this Contract made available through legislative appropriation are based on projected revenue estimates. MDOT may reduce the amount of this Contract if the revenue actually received is insufficient to support the appropriation under which this Contract is made.

4. **ELIGIBLE PROJECT COSTS**

   a. Eligible PROJECT costs are limited to (1) the costs of the PROJECT items and activities shown in the approved PLAN, subject to the provisions of the GUIDELINES; and (2) PLAN preparation costs incurred after the award of this Contract and prior to the approval of the PLAN (if a consultant is used in accordance with the GUIDELINES), up to three percent (3%) of the PROJECT total.

   b. AGENCY administrative costs and in-kind services of AGENCY staff are not eligible PROJECT costs.

   c. Any costs incurred prior to the award of this Contract will not be eligible for MDOT participation.

   d. Any costs incurred in the performance of the PROJECT prior to the written approval of the PLAN by MDOT will not be eligible for MDOT participation.
e. The AGENCY agrees that the costs reported to MDOT for this Contract will represent only those items that are properly chargeable in accordance with this Contract. The AGENCY also certifies that it has read the Contract terms and has made itself aware of the applicable laws, regulations, and terms of this Contract that apply to the reporting of costs incurred under the terms of this Contract.

5. PAYMENTS

In order to receive funds under this Contract, the AGENCY must:

a. Submit progress billings to the OFFICE for payment at least quarterly. The grant amount will be provided to cover allowable costs as indicated in the approved PLAN.

b. Within sixty (60) days after PROJECT completion or termination, the AGENCY will submit to MDOT a billing designated as “Final Billing” to be charged against the Contract, with supporting documentation to substantiate the request for payment. Upon written request by the AGENCY to MDOT within the sixty (60) day period, which request will include documentation of the circumstances that prevent timely submissions of all billings that support the final billing, MDOT may, in writing, extend the sixty (60) day period to a date certain. If the AGENCY fails to provide all billings and supporting documentation for the final billing sixty (60) days after the date of PROJECT completion or termination, or before or upon the extended date certain established by MDOT, MDOT may elect not to accept any further billings, regardless of whether or not the costs are otherwise allowable under this Contract.

c. Reimbursement of any costs pursuant to this section will not constitute a final determination by MDOT of the allowability of such costs and will not constitute a waiver by MDOT of any violation of the terms of this Contract committed by the AGENCY. The final cost for services performed under this Contract will be determined only after completion of an audit by MDOT pursuant to the terms of Section 8 hereof. The provisions of this section will be included in all subcontracts relating to this Contract.

6. TERMINATION OR SUSPENSION

For any reason, MDOT may, by thirty (30) days written notice to the AGENCY, suspend any or all of the rights and obligations under this Contract until such time as the event or condition resulting in such suspension has ceased or been corrected, or MDOT may, by thirty (30) days written notice to the AGENCY, terminate any or all of the rights and obligations under this Contract.

In the event that termination by MDOT is necessitated by any wrongful breach, failure, default, or omission by the AGENCY, MDOT will be entitled to pursue whatever remedy
is available to it, including, but not limited to, withholding funds or setting-off against funds owed to the AGENCY under this Contract, as well as any other existing or future contracts between the AGENCY and MDOT for any and all damages and costs incurred or sustained by MDOT as a result of its termination of this Contract due to the wrongful breach, failure, default, or omission by the AGENCY.

7. ACCOUNTING RECORDS AND DOCUMENTATION

a. The AGENCY will establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this Contract (RECORDS). Separate accounts will be established and maintained for all costs incurred under this Contract.

b. Audit and Inspection: The AGENCY will comply with the provisions of 1951 PA 51; MCL 247.660h.

c. The AGENCY will maintain the RECORDS for at least three (3) years from the date of final payment made by MDOT under this Contract. In the event of a dispute with regard to the allowable expenses or any other issue under this Contract, the AGENCY will thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

d. MDOT or its representative may inspect, copy, scan, or audit the RECORDS at any reasonable time after giving reasonable notice.

e. If any part of the work is subcontracted, the AGENCY will assure compliance with subsections (a), (b), (c), and (d) above for all subcontracted work.

8. AUDIT AND REPAYMENT

In the event that an audit performed by or on behalf of MDOT indicates an adjustment to the costs reported under this Contract or questions the allowability of an item of expense, MDOT will promptly submit to the AGENCY a Notice of Audit Results and a copy of the audit report, which may supplement or modify any tentative findings verbally communicated to the AGENCY at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, the AGENCY will (a) respond in writing to the responsible Bureau or Office of MDOT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense, and (c) submit to MDOT a written explanation as to any questioned or no opinion expressed item of expense (RESPONSE). The RESPONSE will be clearly stated and will provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the AGENCY may supply appropriate
excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by MDOT. The RESPONSE will refer to and apply the language of the Contract. The AGENCY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes MDOT to finally disallow any items of questioned or no opinion expressed cost.

MDOT will make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If MDOT determines that an overpayment has been made to the AGENCY, the AGENCY will repay that amount to MDOT or reach agreement with MDOT on a repayment schedule within thirty (30) days after the date of an invoice from MDOT. If the AGENCY fails to repay the overpayment or reach agreement with MDOT on a repayment schedule within the thirty (30) day period, the AGENCY agrees that MDOT will deduct all or a portion of the overpayment from any funds then or thereafter payable by MDOT to the AGENCY under this Contract, or any other agreement, or payable to the AGENCY under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by MDOT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The AGENCY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest MDOT’s decision only as to any item of expense the disallowance of which was disputed by the AGENCY in a timely filed RESPONSE.

9. THIRD-PARTY CONTRACT PROCEDURES

a. The AGENCY will not sublet any portion of the Contract without the prior written approval of MDOT, and any subcontracts will include all applicable provisions of this Contract.

All subcontracts, including amendments, in excess of Twenty-Five Thousand Dollars ($25,000.00) will be submitted to and approved by MDOT prior to being signed by the AGENCY. The AGENCY will not enter into multiple subcontracts of lesser amounts for the purpose of avoiding such approval process.

Approval of said contracts is given solely for the purposes of MDOT. Approval does not constitute an assumption of liability, a waiver, or an estoppel to enforce any of the requirements of this Contract, nor will any such approvals by MDOT be construed as a warranty of the third party’s qualifications, professional standing, ability to perform the work being subcontracted, or financial integrity.
b. PROJECT Related Procurement Documents: The AGENCY will submit to the OFFICE copies of the following procurement documents:

i. Invitations for Bids (IFBs) - to be submitted by the AGENCY upon distribution.

ii. Amendments to the above - to be submitted by the AGENCY prior to distribution.

c. Competitive Bidding: The AGENCY:

i. Will document competitive quotations utilizing local procurement procedures for third-party contractual agreements of Twenty-Five Thousand Dollars ($25,000.00) and under.

ii. Will advertise for competitive bids on third-party contractual agreements over Twenty-Five Thousand Dollars ($25,000.00), except for contracts for professional and consulting services.

iii. Will solicit proposals from an adequate number of sources to permit reasonable competition for contracts for professional and consulting services over Twenty-Five Thousand Dollars ($25,000.00).

iv. May award a contract to a responsible bidder other than the lowest in price, provided that appropriate provision for such action is included in the IFB upon which bids are invited. Justification of such selection will be provided to the OFFICE prior to the award of the contract.

d. All agreements and/or contracts or supply requisitions will be in accordance with the requirements of 2 CFR Part 200.

10. APPROVALS

Any approvals, reviews, acceptances, and/or inspections of any nature by MDOT will not be construed as warranties or assumptions of liability on the part of MDOT. It is expressly understood and agreed that the same are for the sole and exclusive purposes of MDOT, which is acting in a governmental capacity under this Contract, and that such approvals are a governmental function incidental to the services under this Contract.

Any such approvals, reviews, acceptances, and/or inspections by MDOT will not relieve the AGENCY of its obligations hereunder, nor are such approvals, reviews, acceptances, and/or inspections by MDOT to be construed as warranties as to the propriety of the AGENCY’s performance but are undertaken for the sole use and information of MDOT.
11. ACCESS

The AGENCY agrees to provide and will require its contractors to provide access by MDOT to all technical data, reports, documents, and work in process pertaining to the PROJECT. Copies of technical data, reports, and other documents will be provided by the AGENCY or its contractors to MDOT upon request.

12. INDEMNIFICATION

In addition to the protection afforded by any policy of insurance, the AGENCY agrees to indemnify, defend, and save harmless the State of Michigan, MDOT, the Michigan State Transportation Commission, the Michigan Aeronautics Commission, and all officers, agents, and employees thereof:

a. From any and all claims by persons, firms, or corporations for labor, services, materials, or supplies provided to the AGENCY in connection with the AGENCY’s performance of the PROJECT; and

b. From any and all claims for injuries to or death of any and all persons, for loss of or damage to property, for environmental damage, degradation, and response and clean up costs, and for attorney fees and related costs arising out of, under, or by reason of the AGENCY’s performance of the services under this Contract, except claims resulting from the sole negligence of said indemnitee, its agents, or its employees.

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

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

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

In connection with the performance of the PROJECT under this Contract, the AGENCY (hereinafter in Appendix A referred to as the "contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in Appendix A, dated June 2011, attached hereto and made a part hereof. The AGENCY further covenants that it will comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 USC Sections 1971, 1975a-1975d, and 2000a-2000h-6, and the regulations of the United States Department of Transportation (49 CFR Part 21) issued pursuant to said act, including Appendix B, attached hereto and made a part hereof, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of the PROJECT for which this Contract is made.

14. UNFAIR LABOR PRACTICES

In accordance with 1980 PA 278, MCL 423.321, et seq., the AGENCY, in the performance of this Contract, will not enter into a contract with a subcontractor, manufacturer, or supplier listed in the register maintained by the United States Department of Labor of employers who have been found in contempt of court by a federal court of appeals on not less than three (3) separate occasions involving different violations during the preceding seven (7) years for failure to correct an unfair labor practice, as prohibited by Section 8 of Chapter 372 of the National Labor Relations Act, 29 USC 158. MDOT may void this Contract if the name of the AGENCY or the name of a subcontractor, manufacturer, or supplier utilized by the AGENCY in the performance of this Contract subsequently appears in the register during the performance period of this Contract.

15. MISCELLANEOUS PROVISIONS

a. The AGENCY will comply with any and all state, federal, and local statutes, ordinances, and regulations and will obtain all permits that are applicable to the entry into and the performance of this Contract.

b. Neither the AGENCY nor any of its contractors nor their subcontractors will enter into any contract or arrangement in connection with the PROJECT in which any member, officer, or employee of the AGENCY during his/her tenure or for one (1) year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee acquires, prior to or during his/her tenure, any such interest, and if such interest is immediately disclosed to the AGENCY and such disclosure is entered upon the minutes of the governing board of the AGENCY, the AGENCY, with the prior written approval of MDOT, may waive the imposition of the prohibition contained in this subsection, provided that any such present member, officer, or employee will not participate in any action by the AGENCY relating to such contract, subcontract, or arrangement.
The AGENCY will insert in all of its contracts in connection with the PROJECT and will require its contractors to insert in each of their subcontracts the following provision:

"No member, officer, or employee of the Michigan Department of Transportation or the Muskegon County Board of Commissioners during his/her tenure or for one (1) year thereafter will have any interest, direct or indirect, in this Contract or the proceeds thereof."

The provisions of this subsection will not be applicable to any agreement between the AGENCY and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a State of Michigan agency.

c. The AGENCY warrants that it has no interest and will not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services required to be performed under this Contract. The AGENCY further warrants that no person having any such interest will be employed in the performance of this Contract.

d. None of the funds, materials, properties, or services obtained by MDOT or the AGENCY under this Contract will be used for any partisan political activity or to further the election or defeat of any candidate for public office.

e. No portion of the PROJECT will be assigned.

16. ASSIGNMENT OF ANTITRUST RIGHTS

With regard to claims based on goods or services that were used to meet the AGENCY’s obligation to MDOT under this Contract, the AGENCY hereby irrevocably assigns its right to pursue any claims for relief or causes of action for damages sustained by the State of Michigan or MDOT due to any violation of 15 USC, Sections 1 - 15, and/or 1984 PA 274, MCL 445.771 - 445.788, excluding Section 4a, to the State of Michigan or MDOT.

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

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

17. TERM OF CONTRACT

This Contract will be in effect from the date of award through twelve (12) months; all PROJECT activities will be completed within this period.

Prior to expiration, the time for completion of performance under this Contract may be extended by MDOT upon written request and justification from the AGENCY. Upon approval and authorization by the OFFICE, a written time extension amendment will be prepared and issued by MDOT. Any such extension will not operate as a waiver by MDOT of any of its rights herein set forth.

The AGENCY agrees to notify MDOT of any event that may have significant potential impact on PROJECT progress.
18. SIGNING

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

MUSKEGON COUNTY BOARD OF COMMISSIONERS

By: __________________________________________

Title: __________________________________________________________________________________________

MICHIGAN DEPARTMENT OF TRANSPORTATION

By: __________________________________________

Title: Department Director
APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

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

1. In accordance with Public Act 453 of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220 of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of a disability that is unrelated to the individual’s ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of this contract.

2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.

3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or any disability that is unrelated to the individual’s ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

4. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual’s ability to perform the duties of a particular job or position.

5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising such labor union or workers’ representative of the contractor’s commitments under this Appendix.

6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.
7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor, as well as the contractor itself, and said contractor shall permit access to the contractor’s books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.

8. In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.

9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each subcontractor or supplier.

Revised June 2011
Appendix B
(Aeronautics)

CIVIL RIGHTS ACT OF 1964, TITLE VI - 49 CFR PART 21
CONTRACTUAL REQUIREMENTS

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. Compliance with Regulations. The contractor will comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter “DOT”) Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination. The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitation for Subcontracts, Including Procurement of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurement of materials of leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports. The contractor will provide all information and reports required by the Regulations or directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor will so certify to the sponsor of the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance. In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:
a. Withholding of payments to the contractor under the contract until the contractor complies, and/or

b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions. The contractor will include the provisions of paragraphs 1 through 5 in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directive issued pursuant thereto. The contractor will take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
RESOLUTION


BE IT RESOLVED by the members of the Board of Commissioners of Muskegon, Michigan:

Section I. That the County Board of Commissioners, of Muskegon, Michigan, shall enter into a Sponsor Contract for the development of the Muskegon County Airport, and that such Sponsor Contract shall be as set forth herein below:

Section II. That the Chairperson of the Muskegon Board of Commissioners of Muskegon, Michigan, Susie Hughes, is hereby authorized and directed to execute said Sponsor Contract on behalf of the County of Muskegon, Michigan, and the County Clerk is hereby authorized and directed to impress the official seal and to attest said execution;

Section III. That the Sponsor Contract referred to herein below shall be as attached:

I, Nancy A. Waters, Clerk of Muskegon County, Muskegon, Michigan, do hereby certify that the above is a true and correct copy of a resolution adopted by the Board of Commissioners on May 21, 2019. In testimony whereof, I have hereunto set my hand and affixed the seal.

_______________________________
Nancy A. Waters, Clerk