

AGREEMENT FOR MAINTENANCE AND PROFESSIONAL SERVICES

THIS AGREEMENT is made on the 24th day of September 2015 by and between the County of Otsego, whose address is 225 W. Main Street, Gaylord, Michigan 49735 (hereafter "County") and Gaylord ARFF, Inc., whose address is 6161 West Main Street, Pellston, Michigan 49769 (hereafter "Contractor")

Recitals

- A. WHEREAS, the County owns, operates and maintains several properties in Otsego County, Michigan;
- B. WHEREAS, the County desires to obtain maintenance services at the Gaylord Regional Airport and for other Otsego County Buildings and Grounds;
- C. WHEREAS, Contractor has submitted a proposal for, and is willing, able and qualified to perform, all of said work in accordance with the provisions of this Contract;

NOW, THEREFORE, for an in consideration of the compensation to be paid the Contractor, the mutual agreements hereinafter contained, and subject to terms hereinafter stated, the parties agree as follows:

Agreement

1. TERM

The term of this Agreement shall commence on January 1, 2016, and shall terminate at the end of five (5) years thereafter, terminating on December 31, 2020.

2. COMPENSATION

The County agrees to pay the Contractor for the performance of all of the work required to be performed under this Agreement, and the Contractor agrees to accept as its full and only compensation thereof the annual sums listed below:

2016

Airport:	\$162,233
Building & Grounds:	\$233,044
Total:	\$395,277

2017

Airport:	\$162,233
Building & Grounds:	\$233,044
Total:	\$395,277

2018

Airport:	\$164,666
Building & Grounds:	\$237,705
Total:	\$402,371

2019

Airport:	\$164,666
Building & Grounds:	\$237,705

Total: \$402,371

2020

Airport: \$164,666

Building & Grounds: \$237,705

Total: \$402,371

At their discretion, the County may choose to assume the UNICOM position as a county employee with 30-day advance written notice to Gaylord ARFF. If the County chooses this option, the annual costs will be the following and shall be pro-rated for partial years:

2016

Airport: \$138,233

Building & Grounds: \$233,044

Total: \$371,277

2017

Airport: \$138,233

Building & Grounds: \$233,044

Total: \$371,277

2018

Airport: \$140,666

Building & Grounds: \$237,705

Total: \$378,371

2019

Airport: \$140,666

Building & Grounds: \$237,705

Total: \$378,371

2020

Airport: \$140,666

Building & Grounds: \$237,705

Total: \$378,371

The Airport shall be billed on a monthly basis payable on or before January 7, 2016 and by the 1st of each month thereafter, subject to Otsego County policies and procedures. The Building & Grounds work shall be billed on a quarterly basis payable on or before January 7, April 1, July 1, and October 1, subject to Otsego County policies and procedures.

For any call-in fueling services at the Airport outside of the contractor's normal hours of operation for service at the Gaylord Regional Airport as set forth in this Agreement, Contractor shall receive a fee in the amount of fifty percent (50 %) of the after-hours call-in fee, as established by the Airport Manager.

3. SCOPE OF WORK

The full scope of work can be found in Attachment A, Request for Proposal for Airport Maintenance and Professional Services and Janitorial and Maintenance Services for Various Facilities, Otsego County, Michigan, BID 2015-08 which is incorporated by reference into this Agreement as Appendix A, and have full binding effect upon the parties to this Agreement. In addition to the above, the CONTRACTOR shall be responsible for all training of its employees, and shall provide de-icing services as part of its contractual responsibilities.

4. OBLIGATIONS OF THE COUNTY

Obligation of the County can be found in Attachment A, Request for Proposal for Airport Maintenance and Professional Services and Janitorial and Maintenance Services for Various Facilities, Otsego County, Michigan, BID 2015-08.

5. CONTRACTOR PERFORMANCE

- A. The Contractor shall perform all its obligations and its function under this Agreement in a professional and businesslike manner. The Contractor shall use its best efforts to perform its activities so as to not annoy, disturb, endanger, unreasonably interfere with or delay the operations or activities of any tenants or occupants of the premises, or be offensive to others at any Otsego County facilities.
- B. The appearance of the Contractor's employees shall be clean and neat and their conduct courteous.
- C. The Contractor shall furnish each Contractor's employee with appropriate uniforms which shall be worn by said employees at all times while on duty. The uniforms shall have proper identification thereon of the name of the Contractor and the employee's first name.
- D. The Contractor shall not do or keep anything at any facility which will in any way conflict with any law, ordinance, rule or regulation which may now or hereafter be enacted or promulgated by any governing public authority or create a safety hazard; or create a nuisance; or in any way obstruct or interfere with the rights of other users of County facilities, except as reasonably required in the performance of its obligations and functions hereunder; or commit or allow to be committed any waste upon the facility or use or allow the facility to be used for any improper, immoral, unlawful or objectionable purposes. Any violation of the provisions of this paragraph will be deemed by the County to be a default under this Agreement and shall entitle the County to all remedies created herein or provided by law.
- E. The Contractor shall keep all of the County's tools, equipment, repair parts, and fuel and supplies utilized in the performance of the Agreement inventoried, in good and safe condition, and in working order.
- F. Pursuant to the requirements imposed by the FAA, the Contractor hereby consents to reasonable searches and/or inspections of its employees, its employees' handbags and its employees' lockers.

The Contractor hereby warrants to the County that it will require its employees' consent to the above searches, as part of the employment contract. The County may make reasonable attempts to notify Contractor whenever it or the appropriate authorities intend to conduct searches and/or inspections.

- G. The Contractor shall require all prospective workers to show proof of citizenship or proof from the United States Citizenship and Immigration Services that they have entry permits, work permits and are legal aliens.
- H. The Contractor, in order to comply with the FAA's and TSA's security requirements, shall, prior to hiring an employee, submit to the County (and maintain a record of) proof that the employee has been fingerprinted and any and all background checks, including police, presently or hereinafter required by the County and FAA.
- I. The Contractor shall instruct its personnel that no gratuities shall be solicited or accepted for any reason whatsoever from the passengers, pilots, crew members, or other persons using the Gaylord Regional Airport. The Contractor shall be responsible for ensuring that all articles found by its employees are turned in to the Airport Manager to the extent reasonably possible within two (2) hours of finding said article(s).
- J. The Contractor shall perform all services listed and described in Attachment A, Request for Proposal for Airport Maintenance and Professional Services and Janitorial and Maintenance Services for Various Facilities, Otsego County, Michigan, BID 2015-08 which is incorporated by reference into this Agreement, and have full binding effect upon the parties to this Agreement.

6. INDEMNIFICATION

The Contractor hereby agrees to defend, release, indemnify and save harmless the County, its officers, agents and employees from and against (a) any and all loss of or damage to property or injuries to or death of any person or persons, including property and employees or agents of the County, and (b) any and all claims, demands, suits, actions, liabilities, costs, expenses, or proceedings of any kind or nature whatsoever, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, actions or omissions of the Contractor or those performing under it in connection with its operations or performance of work under this Agreement, and including acts and omissions of the Contractor's employees, representative, suppliers, invitees, contractors and agents. The Contractor's obligations set out in this paragraph shall survive the termination of this Agreement.

7. INSURANCE

The Contractor shall obtain and keep in force during the entire term of the agreement, insurance policies as follows:

- A. Commercial general liability insurance, including motor vehicle liability coverage, in the amount of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate for the protection of the County against claims, liabilities, judgments, costs, damages, and expenses for bodily injury or death, personal injury and/or damage to property arising out of, directly or indirectly, the actions or omissions of the Contractor or those performing under it in connection with its operations or

performance of work under this Agreement. The insurance company must be licensed to do business in Michigan and must have an A- or better rating with A.M. Best Company. Contractor shall provide County with evidence of insurance coverage. Each insurance policy shall name the County as additional insured with loss payable to County and must provide that the policy may not be cancelled or the coverage reduced without at least thirty (30) days prior written notice to County by the insurer.

- B. Worker's disability insurance, including employer's liability coverage, in the amount that is customarily maintained by similar businesses.

Contractor's failure to pay insurance premiums when due or to obtain, maintain or deliver policies of insurance will be deemed by the County to be a default under this Agreement and shall entitle the County to all remedies created herein or provided by law.

8. INDEPENDENT CONTRACTOR.

The Contractor shall not, by virtue of this Agreement, be constituted or be deemed to be an agent or representative of the County for any purpose whatsoever. The Contractor shall perform all of its services hereunder as an independent contractor using its own officers and employees who shall not be or be deemed to be agents, servants, or employees of the County.

9. NOTICES

Any notice to the Contractor from the County or to the County from the Contractor relative to any part of this Agreement shall be in writing and considered delivered and the service thereof completed, when said notice is sent, by certified or registered mail, to the said party or delivered in person to said party or its authorized representative. Notices from the Contractor to the City shall be addressed to the Otsego County Administrator, 225 West Main Street, Gaylord, Michigan 49735. Notices from the County to Contractor shall be addressed to Randolph L. Bricker, Gaylord ARFF, Inc., P.O. Box 467, Pellston, Michigan 49769. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service. The parties may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered but such substitutions shall not be effective until actual receipt of written notification.

10. FEDERAL REQUIREMENTS

- A. This Agreement shall be subject to all restrictions of record affecting the Gaylord Regional Airport and the use thereof, all Federal and State laws and regulations affecting the same, and shall be subject and subordinate to the provisions of any existing agreements between the County and the United States of America and to future agreements between the foregoing relative to the operation and maintenance of the Airport, the execution of which may be required as a condition precedent to the transfer of federal rights or property or the expenditure of federal funds for Airport purposes, or as a condition precedent to the use of the Airport or any part thereof, by the Contractor, the County or otherwise. All provisions hereof shall be subordinate to the right of the United States of America to terminate the

right of the Contractor, the County or other, to occupy or to use the Airport, or any part thereof, during time of war or national emergency.

- B. The County may from time to time be required by the United States Government, its agencies, or the County to adopt additional or amended provisions including non-discrimination provisions, concerning the use and operation of the Airport, and Contractor agrees that it will adopt any such requirements as part of this Agreement.
- C. If the FAA determines that any right or claim of right in or to the property herein creates an undue risk or interference with the operation of the Airport or the performance of or compliance with any covenants and conditions to which the use of the Airport is subject, said right or claim shall be extinguished or modified in a manner acceptable to the FAA.

11. DEFAULT AND TERMINATION

This Agreement may be terminated prior to the expiration of its term as follows:

- A. By mutual written agreement of the parties; or
- B. In the event of default or breach of this Agreement by either party, the other party may give the defaulting party written notice of each claimed default or breach and a date after receipt of such notice by which the default or breach must be remedied. If such default or breach is not remedied by this date, the non-defaulting party may terminate this Agreement by giving written notice of the same, and the defaulting party may also be liable for all damages sustained by the other party by reason the default or breach; or
- C. Either party may terminate this Agreement, with or without cause, upon 120 days prior written notice to either party.
- D. In the event of termination of Services, the CONTRACTOR will be entitled to the monies provided herein only through the date of termination.

12. NO DICRIMINATION IN EMPLOYMENT

In connection with the performance of work under this Agreement, the Contractor agrees not to fail or refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation, terms, conditions or privileges of employment against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Contractor further agrees to insert the foregoing provision in all subcontracts hereunder.

13. ASSIGNMENT AND SUBCONTRACTING

Contractor shall not assign, pledge or transfer its duties and rights under this Agreement, in whole or in part, without first obtaining the written consent of the County administrator, which will not be unreasonably withheld. Work, however, covered by this Agreement may be subcontracted to subcontractors who have been approved in advance and in writing by the County administrator, which approval shall not be unreasonably withheld. The County administrator shall render his decision within ten (10) days. If no decision by the County Administrator is given within ten (10) days, the subcontractor shall

be deemed approved. However, under no circumstances shall the Contractor subcontract with a company which is debarred from participating in County contracting regardless of any other provision of this Agreement.

14. NO INDIVIDUAL LIABILITY

No officers, agents, or employees of the County shall be charged personally by the Contractor with any liability or held liable to it under any term or provision of this Agreement or because of its execution or attempted execution, or because of any breach thereof.

15. NO THIRD PARTY BENEFICIARIES

The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the County and Contractor, and nothing contained in this Agreement shall give or allow any such claim or right of action to any other or third person on such Agreement. It is the express intention of the County and the Contractor that any person other than the County or the Contractor receiving any benefits from this Agreement shall be deemed to be an incidental beneficiary only.

16. NO WAIVER OF RIGHTS

No assent, expressed or implied, to any breach of any one or more of the terms and conditions of this Agreement shall be deemed to be taken to be by the County or Contractor as a waiver of any subsequent breach of such terms and conditions or of any right the County or Contractor may have for damages.

17. COMPLIANCE WITH LAWS

The Contractor shall comply with all provisions of federal, state, municipal, local and departmental laws, ordinances, rules, regulations, and orders which would affect the Agreement and the performance thereof and those engaged therein. This includes obtaining all applicable permits and licenses. If necessary, the County administrator will provide the Contractor with reasonable assistance in obtaining any required County licenses or permits. However, the Contractor shall not apply for any permits or licenses in the name of, or on behalf of, the County. If during the term of this Agreement any unforeseeable changes in such laws, ordinances, rules and regulations, or orders occur which result in actual significant increased costs to the Contractor, the Contractor may submit to the County a written request for equitable adjustment to reimburse it for such costs. The request shall include documentation of the costs claimed by Contractor, identification of the change in law, ordinance, rule, regulation, or order which caused the increased costs and a statement of the reasons why the change was not reasonably foreseeable and the reasons why the change caused the increased costs. The County administrator may, in his discretion, grant or deny an equitable adjustment after review of the information submitted by the Contractor.

18. SEVERABILITY

If any, part, portion or provision of this Agreement shall be found or declared null, void, or unenforceable for any reason whatsoever by any court of competent jurisdiction or any governmental authority having authority thereover, only such part, portion or provision shall be affected thereby and all other parts, portions and provisions of this Agreement shall remain in full force and effect.

19. HEADINGS

The heading contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

20. ENTIRE AGREEMENT

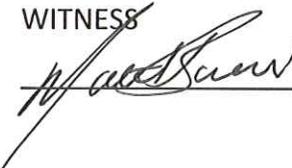
The parties acknowledge and agree that the provisions contained herein constitute the entire agreement between the parties as to the subject hereof, and that all representations made by any officer, agent or employee of the respective parties unless included herein are null and void and of no effect. No alteration, amendments, changes or modifications to this Agreement shall be valid unless they are contained in an instrument, which is executed by all the parties with the same formality as this Agreement.

21. OTHER

All provisions required in the Request for Proposal for Airport Maintenance and Professional Services and Janitorial and Maintenance Services for Various Facilities, Otsego County, Michigan, BID 2015-08 (see Attachment A) shall apply to this contract.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

WITNESS



COUNTY OF OTSEGO

By: 

John M. Burt

Its: Otsego County Administrator

WITNESS



GAYLORD ARFF, INC.

By: 

Randolph L. Bricker, Sr.

Its: President

ATTACHMENT A