



RAPID CITY REGIONAL AIRPORT

ADVERTISEMENT FOR REQUEST FOR PROPOSALS (RFP)

FOR

Aircraft Rescue Firefighting (ARFF) Services

The *proposed* time schedule as related to this procurement is as follows:

February 10, 2025	RFP Posted on Airport's Website
February 8 & 15, 2025	RFP Advertised
February 27, 2025	Recommended Briefing and Site Tour
March 5, 2025	Final Date for Written Questions
March 18, 2025	Proposals Due
March 24-28, 2025	Finalist Interviews (if needed)
April 4, 2025	Anticipated Selection Committee Recommendation
April 8, 2025	Anticipated Airport Board Action/Contract
January 1, 2026	Agreement Commencement Date



**RAPID CITY REGIONAL AIRPORT
ADVERTISEMENT FOR REQUEST FOR PROPOSALS (RFP)
FOR
Aircraft Rescue Firefighting (ARFF) Services**

Sealed proposals will be accepted until 2:00 PM MT, March 18, 2025, by the Rapid City Regional Airport Board (Board), 4550 Terminal Road, Suite 102, Rapid City, SD 57703, for Aircraft Rescue Firefighting (ARFF) services at the Rapid City Regional Airport in accordance with the conditions stated in the Request for Proposals (RFP) package.

RFP documents may be obtained from Toni Broom, Deputy Airport Director for Finance & Administration, at the above address, by calling (605) 394-4195 or by email at toni.broom@rcgov.org.

Proposals must be submitted to the above address and are to be marked: "AIRCRAFT RESCUE FIREFIGHTING SERVICES"

The Rapid City Regional Airport, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, select businesses, or disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

Publication Dates: February 8, 2025
February 15, 2025



I. INTRODUCTION & GENERAL INFORMATION

The Rapid City Regional Airport Board (the “Board”) is soliciting proposals from interested parties (“Proposer(s)”) to provide Aircraft Rescue Firefighting Services (“ARFF”) at the Airport through this RFP Process at the Rapid City Regional Airport (the “Airport”). This document outlines the prerequisites, selection process, and documentation necessary to submit a Proposal for the requested services. Please carefully read the entire package before submitting your Proposal. If awarded, the ARFF services will be conducted in accordance with 14 C.F.R. Part 139 and the terms and conditions of the Board’s ARFF Service Agreement, which will be substantially similar in form to Exhibit A of this RFP. It is the Board’s intention to offer a five-year ARFF Services Agreement utilizing the existing premises located across from the airline terminal apron.

II. AIRPORT BACKGROUND

The Airport is owned by the City of Rapid City and governed by a semi-autonomous board which operates the Airport on behalf of the City. The Board is responsible for the general oversight of the Airport with the ability to sign contracts and authorize expenditures needed to operate the Airport.

The Airport serves as the gateway to Western South Dakota, the Black Hills and Mount Rushmore. It is home to multiple businesses supporting an estimated 2,877 jobs in Pennington County, with an overall economic impact of over \$455 million annually to Rapid City and surrounding communities.

A. Passenger Statistics and Airline Information

Annual passenger traffic statistics include both enplaning and deplaning passengers:

<u>Calendar Year</u>	<u>Enplaned Passengers</u>	<u>Deplaned Passengers</u>	<u>Total Passengers</u>
2024	427,325	428,923	856,248
2023	352,388	350,193	702,581
2022	338,458	334,091	672,549
2021	348,269	342,471	690,740
2020	185,592	188,487	374,079
2019	351,096	354,333	705,429
2018	310,810	315,108	625,918
2017	295,215	300,721	595,936
2016	279,558	281,554	561,102

The Airport is currently served by the following airlines and their partners. Current and seasonal departures are listed below. Note that these are subject to change.



<u>AIRLINE</u>	<u>DESTINATIONS</u>
Allegiant	LAS VEGAS – 2-4X Weekly (Annual) PHOENIX-MESA – 2-4X Weekly (Annual) SANFORD/DAYTONA BEACH – 2X Weekly (Annual) LOS ANGELES – 2X Weekly (Seasonal)
American Airlines	CHARLOTTE – 1X Daily (Seasonal) CHICAGO – 2X Daily (Seasonal) DALLAS/FT. WORTH- 1-3X Daily (Annual)
Delta Air Lines	MINNEAPOLIS – 3-5X Daily (Annual) ATLANTA – 1X Weekly (Seasonal)
United Airlines	DENVER – 3-6X Daily (Annual) CHICAGO – 1-2X Daily (Seasonal)
Sun Country	MINNEAPOLIS 2X Weekly (Seasonal)

B. Planned Facility Expansion

The Airport is currently under construction of Project 1 in a multi-faceted terminal expansion project. The majority of the design portion for all phases has been completed, with Project 1 currently under construction. Phased Projects include:

Project 1: Baggage/Security Ticketing Renovation – Includes a new TSA security checkpoint, an upgraded checked baggage area, and reconfiguration of airline ticket counters.

Project 2: Concourse Expansion – Includes the addition of new gates, expanded hold rooms, and additional space for concessions.

Project 3: Car Rental/Bag Claim Expansion – Includes the addition of a third bag belt, expanded baggage return area, and expanded car rental areas.

III. PROPOSER MINIMUM QUALIFICATIONS

To be considered qualified, Proposer shall submit a proposal which clearly demonstrates that it meets the following Minimum Qualifications as outlined below. Proposers that do not meet these Minimum Qualifications may not be subject to further evaluation.

Proposer must demonstrate at least five (5) years' experience within the last ten (10) years providing Aircraft Rescue and Firefighting services meeting Federal Aviation Regulations (FAR) Part 139 requirements at an Index B airport. The Board reserves the right to disqualify any Proposer who, during the past five years, has had an agreement or contract canceled, or threatened to be canceled by a public agency for cause including either failure to perform or involvement in illegal activity.



IV. BACKGROUND

RAP is situated on approximately 1,725 acres of land east of the City of Rapid City. Major tenants of RAP include: five commercial passenger airlines, two air cargo airlines, seven car rental agencies, restaurant and gift shop concessionaires, one full service general aviation fixed-base operator, one self-service fuel operator, two aeromedical operators, U.S. Forestry Tanker Base, and a SD Army National Guard Readiness Center.

RAP maintains and will provide the following or equivalent facilities, equipment and services for the performance of ARFF services:

- Dedicated ARFF station
- Oshkosh 3,000 gallon Stryker, 2022 model with high extension turret, outfitted tools and equipment;
- Rosenbauer 1,500 gallon Panther, 2011 model with outfitted tools and equipment;
- Ford Explorer Interceptor, 2020 model;
- Emergency response trailer with blocking material, spill kit, and AFFF totes;
- ARFF tools and supplies;
- Station equipment;
- Red phone alerting system;
- AFFF foam supplies;
- Foam testing equipment;
- Fuel and maintenance for listed vehicles;
- Maintenance for the ARFF building structure, electrical, telecommunication, and mechanical systems;
- All utility costs for ARFF building;
- Snozzle training apparatus;
- Internet and facility phone service;
- Exercise equipment;
- Gear washing/drying machines

V. SCOPE OF OPERATIONS

Proposer must provide management services, equipment (other than that provided by Board), and personnel necessary to efficiently provide Aircraft Rescue Fire Fighting services at RAP meeting minimum of FAR Part 139 Index B requirements on a 24-hour basis. Proposer shall flex to Index C requirements upon request of the Board. Any additional staff required to meet additional index requirements shall be reimbursed to Proposer by Board at the actual hourly rate and benefits of the individual providing the additional work. A minimum of two (2) trained ARFF personnel must be available on-shift at all times.



Proposer shall perform ancillary duties as directed by the Board to include, but not be limited to, fire hydrant flushing, AED inspections, fire extinguisher inspections, AED/CPR training, emergency preparedness training (including required annual and triennial exercises), minor ARFF facility maintenance and repair (cleaning, parking lot snow removal and lawn care), maintenance of ARFF equipment records, assistance with conducting vehicle inspections, occasionally escort of contractors, assistance with issuing airport identification media, and other emergency related functions.

Proposer must provide services in a manner that fully complies with FAR Part 139, and any other regulations and directives that may be imposed on the Board by the Federal Aviation Administration, or other federal or state agencies. Proposer must obtain all applicable local/state/federal permits required for the carrying out of the duties set forth in this RFP and Agreement.

The Proposer must provide non-transport, EMT level emergency medical services (EMS) at the Airport. Proposer must establish and maintain certification of EMT-level EMS service in accordance with South Dakota Department of Health standards. Proposer is responsible for securing the services of a Medical Director, and all associated costs shall be incidental to the Proposer's proposal.

Proposer shall respond to any and all fires on the Airport, including but not limited to structural fires.

Proposer shall work with the Board and other emergency responders to develop and implement mutual aid agreements. Law enforcement at the Airport is provided by the Board

Proposer shall maintain the ARFF station and all Board-provided equipment in a clean and functional condition. Proposer will notify the Board, through Board work order system, of any equipment or facilities requiring repair or maintenance for which the Board is responsible.

Proposer's Fire Chief shall provide to the Board on an annual basis a request for additional or replacement equipment or tools. Board will determine any items to be included in the subsequent year's budget to be provided by Board.

Proposer shall be responsible for all costs associated with initial and recurrent training, including live burn training, and for maintaining all required licenses and certification of employees (including wages).

Proposer's Fire Chief shall maintain all records of training, certifications, and compliance with Federal Aviation Regulations at all times and shall provide all requested reports for records by the FAA and/or the Board upon request.

Proposer shall be further responsible for the cost of the following items, which are considered incidental to any fees paid by Board:



- Employee's required uniforms and individual specific firefighting gear/equipment (shirts, pants, jackets, badges, boots, turnout gear, SCBA masks (SCBA tanks provided by Board), etc.). These costs are associated with individual employees and, due to turnover of employees, are outside the control of Board and are therefore excluded from Board-provided equipment.
- Station required cleaning supplies and staff sleeping and hygiene supplies (blankets, sheets, towels, etc.).
- Medical supplies and equipment necessary to maintain EMS service;
- All daily departmental office supplies (pens, paper, binders, etc.).
- Any additional employee workout or fitness equipment supplied beyond what has been provided by the Board.
- Fit testing.
- A minimum of 2 (two) mobile phones and associated cellular service.
- Any employee recreational systems including television services.
- AFFF cleanup costs associated with an accidental discharge due to employee error or negligence.

VI. EMPLOYEE QUALIFICATION AND SPECIFICATIONS

The successful Proposer shall select honest, competent, and courteous personnel to be employed by the Proposer at the Airport. Proposer shall train, supervise and maintain proper surveillance over all its employees to ensure their integrity and the maintenance of an honest and high standard of service to the public, which standard will be determined at the sole discretion of the Executive Director. All personnel must be employees of the Proposer, who shall pay all salaries, Social Security taxes, federal and state unemployment insurance and any and all other taxes or costs relating to such employees.

The successful Proposer shall follow its hiring process set forth in its proposal and shall perform reasonable employment screening. In addition, each employee must submit and successfully complete a security background check, conducted by the Board, which includes a fingerprint based criminal history records check. All associated background and badging costs are the responsibility of the Proposer.

The Proposer shall provide costs for staffing that includes a minimum of one person meeting the qualifications of Captain and one person meeting the qualifications of Airport Firefighter to be on duty at all times, 24 hours a day, seven days a week. Personnel must meet the minimum personnel qualifications for ARFF Fire Chief, Captain, and Firefighter outlined in Appendix A.

The Proposer shall determine the total number of employees necessary to maintain the service required and to cover for illness, vacation, days off, etc. A Fire Chief position, working Monday – Friday from 8am to 5pm, shall be responsible for work conditions, act as a liaison with the



Executive Director, and prepare and complete any necessary documentation, including FAA Part 139 required paperwork.

The Proposer shall ensure that all employees maintain a high level of training and professional knowledge to perform required life safety duties and functions.

VII. INSURANCE AND INDEMNIFICATION

The successful Proposer shall purchase and maintain insurance in accordance with the insurance requirements set forth in Exhibit B to protect the Proposer and the Board throughout the duration of the contract. The Proposer shall not commit any act which could invalidate any policy of insurance. The Proposer shall defend, indemnify and hold harmless the Board in accordance with the indemnification requirements set forth in Exhibit B. The Proposer will be subject to all terms and provisions set forth in Exhibit B.

Prior to commencing operations at the Airport, the Proposer shall provide certificates of insurance and endorsements showing that the Proposer has obtained the insurance required by Exhibit B.

Proposer shall be responsible for any cleanup fees and costs associated with Proposer's employees accidental or intentional discharge of aircraft firefighting foam ("AFFF") outside of an emergency response.

Proposer shall ensure employees are properly trained in the location of foam activation switches and their proper use. No AFFF shall be discharged anywhere on the Airport unless authorized by the Executive Director or in response to an emergency requiring the use of AFFF.

It is the intent of the Board to transition to fluorine-free firefighting foam ("F3") prior to the end of the contract period and to either replace AFFF with F3 in existing ARFF vehicles or to purchase new ARFF vehicles to be filled exclusively with F3. The transition cost will be borne by the Board; however, the successful Proposer will be responsible for cooperating and coordinating on this transition

VIII. REQUIRED PROVISIONS

The final executed Agreement will contain provisions required by the FAA, including but not limited to, civil rights non-discrimination, and will be subordinate to agreements between the Board, the United States of America, and the state of South Dakota.

IX. TERM AND EFFECTIVE DATE OF AGREEMENT

It is the Board's intent to award one Agreement with an initial term of five (5) years with option to extend the term upon mutual agreement of the parties. The effective date of the Agreement is expected to be January 1, 2026. In the event the Federal Aviation Administration modifies the requirements for ARFF services, by amendment to 14 C.F.R. Part 139 or otherwise, the Agreement



may, at Board's option, be modified accordingly, with particular respect to the number of personnel and hours of service.

X. REPORTS AND PROCEDURES

The successful Proposer shall develop Standard Operating Procedures (SOPs) in accordance with operational requirements of the Board. SOPs shall be maintained in a functional manner throughout the Agreement term with current copies provided to the Board at all times. The SOPs shall ensure the intent of this RFP are met on a daily basis in a consistent manner, and shall coordinate with Board procedures, policies, and other operational documents. Proposer may submit samples of existing SOPs at other locations to demonstrate capabilities for SOP development. Reports shall be provided to the Board when requested and in the manner that is requested. Proposer shall be responsible for maintaining all 14 CFR Part 139 required training and ARFF related documents. Said documents will be provided to the Board upon request and prior to annual certification inspections. Proposer shall ensure sufficient training is conducted to ensure that no employee lapses in required training at any time during the term of this Agreement.

XI. COMPENSATION

Proposer shall invoice the Board in equal monthly installments. Payment for services performed will be made within 45 days of the date of the invoice. Other than the base contract cost or exceptions provided within this RFP, there will be no compensation paid to the Proposer for furnishing vehicles, uniforms, equipment or supplies.

XII. COMPLETING AND SIGNING PROPOSALS

Each Proposer must complete and sign their proposal. The proposal must be signed by an authorized official representing the company. The Proposer's full business address must be given. Proposals by partnerships must be signed by one of the general partners. Proposals by corporations must bear the proper corporate name, indicate the state of incorporation, and shall be signed by an officer authorized to bind the corporation.

Each proposal must be in compliance with the provisions of the proposal and must include Attachments A-E, be tabbed, organized, and submitted in the following format (significant deviations may result in disqualification):

TAB	SUBJECT
I.	Executive Summary (including how Proposer meets minimum requirements, and any special corporate competencies that would contribute to the success of the operation, etc.)
II.	Minimum Personnel Qualifications (Attachment A)
III.	Designated Company P.O.C. for the Solicitation and Acknowledgement of Addendum Form (Attachment B)



- IV. Proposer Certification Form (Attachment C)
- V. Proposer Fees (Attachment D)
- VI. Certificate of Prohibited Entry Form (Attachment E)
- VII. Management Plan
- VIII. Full Staffing Plan
- IX. Proposed Management Staff (Fire Chief)
- X. Sample SOPs / Policies
- XI. References / Past Experience and Performance
- XII. Exceptions to Specimen Contract (do not edit or redline agreement)
- XIII. Any additional information (limited to 5 pages)

By submission of the proposal, the Proposer agrees to the terms set forth in the attached Agreement. Any exceptions to the Agreement must be explicitly stated in the proposal.

XIII. INSTRUCTIONS FOR MANAGEMENT PLAN AND PAST EXPERIENCE

Each Proposer shall submit with their proposal a management plan proposed to support the requirements of the Airport Rescue & Firefighting Services Agreement. Such management plan shall include, but is not limited to the following topics:

- A. Staffing
 - a. Key Personnel Assignments/Responsibilities: Include a one-page resume for each key personnel who would be assigned to provide services at the Airport as well as the Corporate Management.
 - b. Employment standards: Describe the organization's process for hiring employees.
 - c. Pay and Benefits: Demonstrate that the pay and benefit structure will enable Proposer to attract and retain highly qualified employees.
 - d. Sample work schedule: Detail the number of personnel and shift assignments required to service the contract and cover for vacation and sick time.

- B. Operations Plan
 - a. Describe the Proposer's ARFF training curriculum and recordkeeping methodology.
 - b. Describe the Proposer's safety and training programs for its employees to ensure compliance with Part 139 Standards.
 - c. Provide copies of Incident and Report writing forms to be used by Proposer.
 - d. Provide list of additional services for the Board's consideration which are offered at no additional cost to enhance required services.

- C. Personnel policies
 - a. Equal employment opportunity practices: Describe the organization's efforts to have a work force that is ethnically and culturally representative of the local population.



- b. Sexual harassment policy: Describe the organization's policy for responding to instances of sexual harassment by members of its organization.
- D. References, Past Experience and Performance
- a. Provide a minimum of three references.
 - b. Describe the organization's past experience at similarly situated airports.
 - c. Describe any previous emergency situations that the company has successfully managed and how it was accomplished.

XIV. REFERENCES AND INFORMATION ABOUT THIS RFP

A. Pre-Proposal Briefing and Site Tour

A Pre-Proposal briefing and site tour will be held to discuss this RFP on Thursday, February 27, 2025, at 2:00 PM MT and Proposers are encouraged to attend. The meeting will be held at the Rapid City Regional Airport ARFF "Station 8" 4440 Kitty Hawk Road, Rapid City, SD 57703. Staff will be available to present a brief overview of the proposed ARFF Services and answer questions about the scope and selection process. You must give at least forty-eight (48) hours advance notification to the Airport by email to toni.broom@rcgov.org of persons attending. If you are in need of special accommodations, please notify toni.broom@rcgov.org at least 24 hours prior to the meeting so that appropriate auxiliary aids and services are available. A tour of the Airport ARFF Station will be provided at the close of the meeting. The entire meeting and tour are anticipated to be less than two hours in duration.

This pre-Proposal briefing will be the only opportunity afforded potential Proposers to discuss, as a group, the scope and requirements of this RFP and to be given a tour of the ARFF Station.

B. Proposer Responsibilities

Proposers shall thoroughly examine and become familiar with this RFP, the Proposal forms, the specimen Agreement, and all related documents comprising this RFP and any written Addendum thereto.

It is the responsibility of each Proposer to investigate and be satisfied as to the facts and conditions associated with this RFP prior to submitting a Proposal. The Board makes no representation or warranties and accepts no responsibility for the accuracy or completeness of any information supplied. Proposers are responsible for obtaining their own independent financial, legal, accounting, and technical advice on all proposal matters.

Submission of a Proposal shall constitute an acknowledgment that the Proposer has thoroughly examined and is familiar with this RFP and any Addendum which may be issued. The failure or neglect of a Proposer to receive or examine any RFP documents or Addenda shall in no way relieve Proposer from any obligation with respect to the Proposal or the obligations that result from



submitting a successful Proposal. No claim based upon lack of knowledge or understanding of this RFP or its contents shall be allowed.

C. Equal Employment Opportunity

Rapid City Regional Airport is an Equal Employment Opportunity (EEO) organization, which does not discriminate on the basis of race, religion, color, sex, age, marital status, national origin, sexual orientation, or the presence of any sensory, mental or physical disability in consideration of a contract award. The successful Proposer will be required to comply with all federal, state, and local laws and regulations.

D. Prohibition Against Lobbying

The Proposer shall not lobby, either on an individual or collective basis, the Board (its associated City employees, or outside advisors) or any federal, state, or local elected or public officials or staff regarding this RFP or its written Proposal. Proposers, the Proposer's acquaintances, friends, family, outside advisors, agents, or other representatives shall not contact the Board (its associated City employees or outside advisors, excluding the Board contact identified herein) or any federal, state, or local elected or public officials or Airport staff to arrange meetings, visits, or presentations to influence the outcome of the selection process. Violation of this provision, by or on behalf of a Proposer, intentionally or unintentionally, will result in disqualification of the Proposer and/or rejection of a written Proposal.

E. Prohibited Entity Certification

The Proposer must submit a Certification of Prohibited Entity Status (Attachment D) with its Proposal that certifies that the Proposer is not a Prohibited Entity as defined in SDCL 5-18A-1(19A), defined as a company or organization which is ultimately owned or controlled by a foreign parent entity or the government of the People's Republic of China, the Republic of Cuba, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Russian Federation, or the Bolivarian Republic of Venezuela. This Certification shall be provided in a form acceptable to the Board. A Proposer shall provide any information requested by the Board to verify the certification, upon request; however, the Board may rely on the certification without conducting any further investigative research or inquiry.

F. Questions, Inquiries and Contact with Airport Staff

The Board is committed to providing all interested parties with accurate and consistent information in order to ensure that no Proposer obtains an undue competitive advantage. To this end, from the date of this RFP through award of contract, the Board contact is:

Toni Broom, Deputy Airport Director for Finance & Administration
4550 Terminal Road, Suite 102
Rapid City, SD 57703
(605) 394-6794
E-mail: toni.broom@rcgov.org

The Airport's website (www.rapairport.com) contains additional information which is available to assist Proposers in responding to this RFP.

All questions from Proposers must be submitted in writing, electronically, to toni.broom@rcgov.org by 5:00 PM MT on March 5, 2025. It will be the sole responsibility of the Proposers to ensure questions are submitted in a timely manner. Answers to questions, other clarifications and/or addendums will be posted to the Airport's web site at <https://rapairport.com/category/projects/>.

It shall be the Proposer's responsibility to monitor the Addendums that may be issued under and as a part of this RFP. Copies of this RFP, and any Addendum issued, are available for viewing at <https://rapairport.com/category/projects/>. Any Addendums so issued are to be considered a part of this RFP document. Therefore, receipt of all Addendums issued during this RFP must be acknowledged on the Addendum Acknowledgement Form (Attachment A) and included with your Proposal.

G. Confidentiality

Proposals shall not be returned unless a written request to withdraw is received prior to 2:00 PM, MT, on March 18, 2025. Information that is considered by a Proposer to be proprietary may still be subject to release as a component of an open records request under the South Dakota Open Records Act subject to review by the City Attorney. Proprietary information should be clearly marked as "confidential" or "proprietary" on each page on which the information appears. Proposers should not expect the Board to seek confidentiality protection for any claimed privileged or proprietary information in the written Proposal simply because the material is marked "confidential" or "proprietary." For any essential information that the Proposer reasonably believes can be defended as being exempt from disclosure under the South Dakota Open Records Act, the information must be capable of being separated or redacted from the Proposal and should be clearly and specifically marked. Proposers shall bear all costs to defend the exclusion of any records excluded from disclosure.

XV. PROPOSAL PROCESS

A. Submittal Process

RFP documents may be obtained by accessing the Airport website at <https://rapairport.com/category/projects/>.



Sealed proposals, two (2) originals, and one electronic copy of the proposal on a flash drive together shall be submitted by 2:00 PM, MT, March 18, 2025, and delivered as follows. In lieu of physical delivery, Proposers may request a secure link to upload their Proposal by emailing toni.broom@rcgov.org.

Rapid City Regional Airport
4550 Terminal Road, Suite 102
Rapid City, SD 57703

All Proposals will be time-stamped upon receipt and any Proposals received after the time specified above will be returned unopened. In bold lettering, mark the sealed envelope with the following words: “**AIRCRAFT RESCUE FIREFIGHTING SERVICES**”. Faxed or emailed copies will not be accepted. All responsive Proposals become the property of the Board and must be provided without cost to the Board. Except as otherwise provided for herein, Proposals which are incomplete or which are not in conformance with the law, may be rejected as non-responsive.

Any Proposal submitted will be deemed to be valid for a period of up to ninety (90) days following the closing date of the RFP. Submission of a Proposal indicates acceptance by the Proposer of the conditions contained in this RFP, and the intent to enter an ARFF Service Agreement with the Board consistent with the form of ARFF Services Agreement attached hereto as Exhibit A.

By submittal of a Proposal pursuant to this RFP, the Proposer certifies that no fee or commission, or any other thing of value, has been paid or agreed to be paid to any employee, agent, representative, official or current Proposer of the Board in order to procure the contract described in this RFP. The Proposer also certifies that the financial information in its proposal has been arrived at independently and without consultation, communication or agreement with the Board, or other Proposers, to restrict competition as to any matter relating to this RFP.

XVI. EVALUATION OF PROPOSALS

A Selection Committee will evaluate Proposals and make a recommendation to the Board as to which Proposer(s) offers the best overall Proposal in its judgment. The Selection Committee and Board reserve the right to request additional information from Proposers to clarify the meaning of any portion of the written Proposal. Proposers may be required to be interviewed by and make presentations to the Selection Committee. Questions and interviews are at the sole discretion and option of the Selection Committee and may not be afforded to any or all Proposer(s). Proposals failing to meet Minimum Qualifications, including completeness, format and content, will be rejected without further evaluation, and Proposer will be so informed in writing.

After the Proposals are reviewed and interviews/presentations completed (if necessary), the Selection Committee will make its selection recommendation to the Board. After the recommendation is made, the Board will determine which Proposal(s), if any, will be accepted. The Board reserves the right to accept or reject any committee recommendation. Following the



acceptance of a proposal, the selected Proposer and the Airport Board must execute a Service Agreement prior to the start of any work for which the City or Airport would be obligated.

XVII. BOARD CONSIDERATION OF RECOMMENDATION OF STAFF RECOMMENDATION OF BEST PROPOSAL

When the Selection Committee recommendation comes before the Board for consideration, the Board may request that the recommended Proposer appear before the Board to give a presentation or to answer questions regarding its proposal. Competing Proposers will not be allowed to speak at that time unless a prior request has been made by such a Proposer and permission to speak granted, or unless a Board member requests that the competing Proposer be allowed to speak and the Board consents to such request.

XVIII. RIGHT TO NEGOTIATE

Proposer acknowledges that Board retains the right to negotiate any terms and/or conditions of the Agreement prior to execution of the Agreement by the Board.

XX. PROPOSAL SCORING

The Selection Committee will use the following evaluation factors in evaluating Proposals. Each criterion is weighted and will receive points from 1-5, with 5 being the highest score, then weighted according to the percentage assigned to each evaluation factor. Individual evaluator scores will then be tallied together for a total of 20 points available for each factor.

- 1) **Experience, Qualifications, and Past Performance – 30%**
Based on the experience of the management team, the proposed staffing plan, the proposed labor and training practices, the proposed procedure(s) for ensuring high quality employees, including the quality and successfulness of past performance in providing Airport Rescue & Firefighting Services.
- 2) **Operations Plan – 30%**
Based on the training curriculum, recordkeeping methodology, safety and training programs, and the proposed procedure(s) for ensuring compliance with all regulatory items and providing high quality service.
- 3) **Price – 30%**
Based on the proposed cost of performing the provided services.
- 7) **Quality of Proposal – 10%**
Based on the quality of the Proposal itself and its adherence to the instructions provided in this RFP, its overall organization and appearance, and how well it communicates the Proposer's price, qualifications and operational plans.

XXI. RIGHTS OF THE BOARD



The Board reserves the right to reject all, or portions of any or all, proposals. The Board may, at its sole discretion, withdraw this RFP with or without issuance of replacement RFP, re-advertise, extend deadlines, waive irregularities and technicalities, or modify or amend any and all provisions herein. The Board will not pay for any information herein requested. The Board reserves the right to extend the RFP submittal date if needed. All changes and/or clarifications will be distributed to all those indicating interest in this RFP through an addendum. Any award as a result of this procurement shall be contingent upon the execution of an appropriate Services Agreement.

This RFP does not obligate the Board to enter into a Services Agreement or pay any costs incurred in the preparation of a Proposal pursuant to this RFP or incurred in subsequent negotiations. The Board assumes no liability for costs incurred to prepare a Proposal or in anticipation of contract execution. The Board will assume financial responsibility only upon and in accordance with an executed agreement with the selected Proposer.

PROPOSAL ATTACHMENTS AND RFP EXHIBITS:

Attachments/Forms to the Proposal to the Proposal (to be returned with Proposal)

Attachment A	Minimum Personnel Qualifications
Attachment B	Designated Company Point of Contact for this Solicitation and Acknowledgement of Addendum Form
Attachment C	Proposer Certification Form
Attachment D	Proposer Fees
Attachment E	Certification of Prohibited Entity Form

RFP Exhibits – For Information Only (Not to be returned with Proposal)

- Exhibit A..... ARFF Services Specimen Agreement
- Exhibit B..... Insurance Requirements



ATTACHMENT A
To be returned with Proposal

Proposer Name: _____

MINIMUM PERSONNEL QUALIFICATIONS

Fire Chief

CERTIFICATIONS: Firefighter I & II or higher, Fire Officer I & II or higher, Haz-Mat Operations Level or higher, Emergency Medical Technician, and NIMS/ICS Management Certifications

EXPERIENCE: Minimum of 10 years' experience in an airport, municipal and/or military emergency service. Minimum of 5 years in a supervisory position.

EDUCATION: Bachelor's degree or equivalent professional experience. Graduate of Executive Officer or Leadership program preferred.

Fire Captain

CERTIFICATIONS: Firefighter I or higher, Fire Officer I or higher, Haz-Mat Operations Level or higher, Emergency Medical Technician, and NIMS/ICS Management Certifications

EXPERIENCE: Minimum of 5 years' experience in an airport, municipal and/or military emergency service.

EDUCATION: Associates degree or equivalent professional experience acceptable to the Executive Director.

Firefighter

CERTIFICATIONS: Firefighter I or higher, Emergency Medical Technician, and NIMS/ICS Certifications

EXPERIENCE: Minimum of 1 year experience in an airport, municipal and/or military emergency service.

EDUCATION: Associates degree or equivalent professional experience acceptable to the Executive Director.



ATTACHMENT B
To be returned with Proposal

Proposer Name: _____

**DESIGNATED COMPANY POINT OF CONTACT FOR THIS SOLICITATION AND
ACKNOWLEDGEMENT OF ADDENDUM FORM**

The person or persons listed below should include those designated by the Proposer as being the authorized company point(s) of contact. The person or persons listed below should be qualified and authorized to provide, or arrange to be provided, any additional information which may be requested, or answer any questions regarding the Proposal submittals.

Name _____

Title _____

Company _____

Phone Number(s) _____

Mailing/Parcel Delivery
Address _____

Email Address _____

ADDENDA – <https://www.rapairport.com/category/projects/>. It is Proposer’s responsibility to check for issuance of any addenda at the above website. The authorized representative hereby acknowledges receipt of the following addenda:

Addenda No: _____ Date: _____ Addenda No: _____ Date: _____

Addenda No: _____ Date: _____ Addenda No: _____ Date: _____



ATTACHMENT C
To be returned with Proposal

Proposer Name: _____

PROPOSER CERTIFICATION FORM

The Proposer hereby acknowledges that it has received, examined and is familiar with the Request for Proposals and attached specimen Agreement, documents, forms and addendum.

The Proposer hereby certifies that the Proposer meets or exceeds the Minimum Qualifications of this RFP and is financially capable of performing the ARFF Services Agreement.

The person signing this document hereby certifies that he or she has the full authority to bind the company to all terms and conditions and is duly authorized and designated to execute this Proposal and other documents required pursuant to this solicitation.

Proposer Entity: _____

By: _____

Title: _____

Name: (Typed or printed) _____

(Attach additional sheets if needed)

Dated: _____



ATTACHMENT D
To be returned with Proposal

Proposer Name: _____

PROPOSER FEES

As full compensation for the provision of ARFF services described in this solicitation, Proposer submits the following fee proposal show below:

Agreement Year 1 (2026) Annual Fee:	\$ _____
Agreement Year 2 (2027) Annual Fee:	\$ _____
Agreement Year 3 (2028) Annual Fee:	\$ _____
Agreement Year 4 (2029) Annual Fee:	\$ _____
Agreement Year 5 (2030) Annual Fee:	\$ _____
Total Years 1-5, 2026-2030:	\$ _____

Total Years 1-5, 2026-2030, in written words:



ATTACHMENT E
To be returned with Proposal

Proposer Name: _____

CERTIFICATION OF PROHIBITED ENTITY STATUS - SDCL 5-18A-51

SDCL 5-18A-1(19A) defines "Prohibited Entity" as follows:

"[A]n organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates, of those entities or business associations, regardless of their principal place of business, which is ultimately owned or controlled by:

- (a) A foreign parent entity from the People's Republic of China, the Republic of Cuba, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Russian Federation, or the Bolivarian Republic of Venezuela; or
- (b) The government of the People's Republic of China, the Republic of Cuba, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Russian Federation, or the Bolivarian Republic of Venezuela.

A prohibited entity does not include a citizen or legal permanent resident of the United States, or an individual foreign national;

The undersigned hereby certifies the following:

1. I am an authorized representative and agent of _____
_____ ("Proposer");
2. Check one:
 Proposer is not a Prohibited Entity as defined by SDCL 5-18A-1(19A); or
 Proposer is a Prohibited Entity pursuant to SDCL 5-18A-1(19A) but grounds for waiver exist pursuant to SDCL 5-18A-52. *If marking this option, provide the basis for the requested grounds for waiver.*
3. I understand that a Proposer who becomes a Prohibited Entity, as defined above, at any time after making this certification that it is not a Prohibited Entity, Proposer must provide written notice to the Board, who may terminate the contract.
4. I understand that the Rapid City Regional Airport Board has the right to terminate a contract with any contractor who submits a false certification, and that any bidder who submits a false certification may be subject to suspension or debarment under SDCL 5-18D-12.

Dated this _____ day of _____, 20____.

(Contractor Business Name)
By: _____
Printed name: _____
Title: _____



EXHIBIT A
RAPID CITY REGIONAL AIRPORT BOARD
AIRCRAFT RESCUE AND FIREFIGHTING
SERVICES AGREEMENT

This **AGREEMENT** is made and entered into this ____ day of _____, 2025, (“**Effective Date**”) by and between the City of Rapid City by and through the Rapid City Regional Airport Board (the “**Board**”) and _____, a _____ company authorized to do business in the State of South Dakota (hereinafter “**Contractor**”) (the Board and Contractor together are referred to herein as the “**Parties**”).

WHEREAS, Board owns and operates **Rapid City Regional Airport** (hereinafter “**Airport**”), located in Rapid City, Pennington County, South Dakota, for the use and benefit of the public; and

WHEREAS, Board is empowered and authorized to grant service agreements on behalf of the City of Rapid City, including aircraft rescue and firefighting services (referred to hereinafter as “**ARFF**” or “**ARFF services**”).

WHEREAS, Board conducted a public procurement to select an entity best qualified to provide aircraft rescue and firefighting services at the Airport and identified the Contractor as the apparent best proposer; and

WHEREAS, Board desires to retain Contractor for the purposes and on the terms and conditions hereinafter set forth; and

WHEREAS, Contractor is qualified to provide the type of services hereinafter described and has the requisite staff, training, licensing and certifications necessary to perform the services; and

NOW, THEREFORE, for and in consideration of these presents, and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged each to the other, the Board and Contractor do hereby mutually undertake, promise and agree, each for itself and its successors and assigns, as follows:

ARTICLE 1
CONTRACTOR OBLIGATIONS

1.1 Contractor shall provide aircraft rescue and firefighting services, as more specifically described in Appendix A (Specifications), and such similar and related services as are customarily associated with the aforementioned ARFF services even if not explicitly enumerated (hereinafter collectively the “**Services**”). The Services shall be provided at the Airport for the benefit of the Board, Board’s lessees, guests and invitees, including aircraft operators, the traveling and general public, employees of any of the foregoing and all manner of property on or about the Airport. All Services shall be performed by employees who are appropriately trained, licensed, and qualified to perform the Services assigned to them, and Contractor shall perform such Services to the highest standards of the industry. Contractor shall supervise and direct all Services required by this Agreement in a professional, competent, and efficient manner using such skill and expertise as is customary and appropriate for the type of Services to be provided under this Agreement. Contractor is solely responsible for and shall have control over, the means, methods, techniques,

and procedures used in performing the Services, but shall take its direction on the administration of this Agreement from the Board, including the Airport Executive Director, as provided herein.

1.2 Contractor shall provide ARFF services in accordance with the requirements of 14 C.F.R. Part 139, including Sections 139.315, 139.317, and 139.319, and the Airport Certification Manual, as each may be amended from time to time during the term hereof. Contractor specifically shall provide ARFF services consistent with Index B, as established under 14 C.F.R. Part 139 as amended, and have the capability to provide ARFF services consistent with Index C with advance notice from Board. In the event that the ARFF Index at the Airport changes during the term hereof, the Parties shall amend this Agreement if necessary to provide the different level of ARFF services.

1.3 Contractor shall provide firefighting services for any structural or other said fire occurring on the Airport. Contractor shall also respond and provide emergency medical treatment in all related incidents occurring on the Airport.

1.4. Contractor shall assist in the development and implementation of mutual aid agreements with all other local emergency responders.

1.5 Contractor shall be responsible for implementing, enforcing and administering the Airport Security Plan, Airport Certification Manual, and the Airport Emergency Plan as well as supplement and make recommendations for said manuals for approval by the Airport Executive Director. Upon approval by the Airport Executive Director, Contractor shall report in writing to the Airport Executive Director any infraction of or incident in connection with such plans and manuals. Contractor acknowledges and agrees that nothing herein is intended, or shall be construed, to confer law enforcement authority or jurisdiction and that Contractor shall coordinate, as needed, with federal, state and local law enforcement agencies in performing the Services and implementing the plans and manuals.

1.6 Contractor shall perform the Services only upon the Airport, except in accordance with mutual aid or similar agreements approved in advance by Board. Contractor further shall be responsible for coordinating with any entity responding to an incident, accident or emergency at the Airport, in accordance with a mutual aid or similar agreement.

1.7 Contractor shall cause complete and accurate records of the Services it provides at the Airport to be entered and maintained in such systems as Board may provide or require from time to time, as well as provide the Board with appropriate copies of all incident reports upon such schedule established by the Airport Executive Director or as may be requested by the Board from time to time.

1.8 Contractor shall keep clean and in good order and repair all facilities, vehicles and equipment provided by Board for the purposes hereunder or otherwise used by Contractor at the Airport. Contractor shall provide cleaning, lawn care, snow removal and minor maintenance of the ARFF facilities and provide cleaning, minor maintenance and repair, evaluation, testing, and maintain records of ARFF equipment. In the event of any accident in performing Contractor operations at the Airport, Contractor shall immediately notify the Airport Executive Director, confirming same in writing within one (1) business day unless a shorter time period is applicable under this Agreement.

1.9 Contractor shall be liable for damages to any Board vehicle or equipment other than from normal or expected wear and tear, arising from or caused by the intentional or negligent acts and omissions of its employees and for the cost of any lost or missing equipment as determined by the

Board's inventory and inspection of equipment upon expiration of the Agreement's term or any extension or renewal thereof; except, however, that the amount of Contractor's liability shall be limited to the amount of such damages which are not covered, paid or reimbursed under any policy of insurance maintained by Board or Contractor.

1.10 Contractor shall be responsible for maintaining inventories of all capital and consumable supplies, including fuel, lubricants, emergency medical supplies and fire suppression chemicals, owned by the Board and available for Contractor's use. Contractor shall monthly notify the Board of any needed inventory in writing through the Airport Executive Director. Any shortage in such inventory at the end of the term of this Agreement, as extended or renewed, if at all, shall be at Contractor's sole expense.

1.11 Contractor shall ensure that each employee assigned to perform one or more of the Services at the Airport has the requisite skills, training and certification to perform the Service(s), as more particularly described in Appendix A. Contractor shall, for example and without limitation, ensure that each employee required to be trained to perform ARFF services, has received the initial training and is up-to-date on any recurrent training. Upon request of the Airport Executive Director, Contractor shall provide current information for all Contractor employees assigned to the Airport, including current licensing and certification status. Contractor shall, at its own initiative or at the direction of the Airport Executive Director, remove and replace any individual who is not qualified or certified to perform a Service to which the individual has been assigned.

1.12 Contractor shall ensure that its employees dress in uniforms and attire, present themselves when on duty at the Airport in a neat and professional manner; and engage with Airport tenants, employees, passengers and members of the public in a courteous and respectful manner.

1.13 Contractor shall comply with applicable regulations, policies and directives of the U.S. Department of Transportation ("DOT"), Federal Aviation Administration ("FAA"), and Transportation Security Administration (TSA), and such other laws and regulations, including all other fire, rescue, and emergency medical service laws and regulations, which may be imposed by a federal, state or local public entity. Contractor shall promptly remedy any negative finding or deficiency identified by the FAA in connection with a certification inspection of the Airport conducted pursuant to 14 C.F.R. Part 139. Contractor further shall comply with the Airport Rules and Regulations and the Airport Security Plan, as each may be adopted and amended from time to time. Contractor shall reimburse the Board for any civil penalties or fines assessed against the Board by TSA for violation of 49 C.F.R. Part 1542 or the Airport Security Plan that are caused by, or directly attributable to, the actions or omissions of Contractor.

1.14 Contractor shall afford access to the Board and its representatives, including both internal and external auditors, at all reasonable times, to any correspondence, instructions, invoices, receipts, vouchers, purchase orders, contracts, logs, memoranda, notes or other records or documents relating to the Airport or the Services provided under this Agreement. Contractor shall maintain its records associated with this Agreement and the Services in accordance with the laws of the State of South Dakota for a period of at least three (3) years from the expiration of this Agreement. Contractor personnel records which must remain confidential by law are excluded, provided that such records shall be subject to legal process. Contractor acknowledges that records or documents within its possession may be subject to disclosure in accordance with the laws of the State of South Dakota.

ARTICLE 2

BOARD OBLIGATIONS

2.1 Board shall provide Contractor, without cost, a facility at the Airport, for Contractor's exclusive or non-exclusive use, to support Contractor's performance of the Services, including the storage of vehicles and equipment used in performing the Services. Board shall provide, at no cost to Contractor, all utilities, telecommunications, and maintenance for the designated facilities, provided that Contractor shall keep and maintain the facilities in clean condition at all times. Board may, in its sole discretion, redesignate the facility during the term of this Agreement and relocate Contractor to one or more comparable facilities. Any facility provided by Board for ARFF services shall be located so as to enable the Contractor to meet the response time and performance standards currently set forth in 14 C.F.R. § 139.319.

2.2 Board shall provide facilities and equipment, including vehicles, to perform the Services. Within fifteen (15) days of the Effective Date, Contractor and Board shall agree as to the identity, number and condition of all vehicles and equipment provided by Board for Contractor's use at the Airport. Board shall provide major maintenance, repair, and/or replacement of ARFF facilities and/or equipment. Board reserves the right to add or remove vehicles and equipment from service at the Airport in its sole discretion, provided that Contractor shall throughout the term hereof be afforded access to a sufficient number of vehicles required to perform the Services.

2.3 Board shall provide Contractor with a sufficient number of employee vehicle parking spaces, within reasonable proximity to the facilities used by Contractor in performing the Services, at no cost to Contractor.

2.4 Board shall retain ownership of all facilities, vehicles and equipment that may be made available to Contractor to perform the Services, and nothing herein shall be construed to grant the Contractor any ownership or leasehold interest in real or personal property at the Airport.

2.5 Board shall designate the Airport Executive Director as its authorized representative hereunder, and shall make the Airport Executive Director, or his/her designee, available at all hours of each day throughout the term hereof to coordinate with Contractor, and to advise or direct the Contractor as appropriate, in response to any incident, accident, or emergency.

2.6 Board shall be responsible for all communications with the media related in any manner to incidents, accidents and emergencies occurring on the Airport, and Contractor shall refer all media inquiries to the Airport Executive Director.

2.7 Board shall have the right to order changes or alterations in the Services to be performed by Contractor. If changes or alterations ordered affect the number of personnel assigned to the Airport or otherwise affect the cost of providing the Services, adjustments may be made in the compensation owing to Contractor, in accordance with Article 3 hereof. Board and Contractor acknowledge that the FAA, DOT, and TSA or other local, state, or federal regulatory agencies may change regulations under which the Airport operates and the type of Services which may be performed by Contractor. In such an event, within sixty (60) days after such regulatory changes is announced, Contractor and Board shall meet to negotiate changes to the Services to be provided and an appropriate adjustment to the fees to be paid to Contractor hereunder shall be agreed upon.

ARTICLE 3

BUDGET, COMPENSATION AND PAYMENT

3.1 Contractor and Board, prior to entering into this Agreement, have mutually agreed upon an operating budget (hereinafter “Budget”) for the full term of this Agreement, as set forth in Contractor’s proposal and listed below:

- Year 1 (2026) \$ _____
- Year 2 (2027) \$ _____
- Year 3 (2028) \$ _____
- Year 4 (2029) \$ _____
- Year 5 (2030) \$ _____

Excepting for emergencies and additional Services directed by the Airport Executive Director beyond that amount included in the Budget, if any, Contractor shall provide the Services set forth in Appendix A within the Budget.

3.2 Emergencies in excess of the Budget and Services beyond that set forth in Appendix A that may be requested by the Airport Executive Director shall be compensated at the rates in effect in the Budget applicable at the time such Services are performed.

3. Contractor shall prepare and submit an invoice monthly to the Board for its Services performed during the prior month. Invoices shall be properly supported with documentation reasonably acceptable to the Board. Any eligible reimbursable expenses shall be supported by receipts and other documents evidencing the actual cost. Board shall pay Contractor’s invoice within forty-five (45) days of submission unless any part of the invoice is disputed, in which case the balance of the invoice, after deducting the disputed amount, shall be paid in full and the amount disputed by Board shall be so identified and notice of such dispute communicated to Contractor, whereupon, the Parties shall use their best efforts to resolve such dispute. Nothing herein shall prevent Board from disputing any invoice, or part thereof, after payment.

3.4 Reimbursable expenses shall mean those goods and services not customarily provided by an airport ARFF services contractor as part of its services and which are reasonably related to the Services which are to be provided by Contractor under this Agreement. The Airport Executive Director shall have final approval regarding the reasonableness and necessity of any goods or services for which Contractor is requesting reimbursement. All non-emergency subcontracts which may constitute a reimbursable expense shall be approved by the Airport Executive Director prior to execution thereof by Contractor.

ARTICLE 4

TERM AND TERMINATION

4.1 The initial term of this Agreement between the Board and the Contractor and shall commence on the first date that Contractor begins to perform any of the Services at the Airport (“Commencement Date”), which Commencement Date shall be January 1, 2026, and continue for five (5) years (“Initial Term”) unless earlier terminated in accordance with this Agreement (“Term”). The Parties may, on mutual written consent, extend the Term for no more than one (1)

two (2) year period. Annual amounts for the Extended Term are subject to mutually agreed negotiations. Either party may, in its sole discretion, decline to extend this Agreement for a renewal period.

4.2 Board shall have the right to extend the Term for an additional six (6) months upon the expiration of the initial term or a renewal term in order to provide for an orderly transition to another public or private entity to perform some of all of the Services.

4.3 After the first day of the third year of the Initial Term until the end of the Initial Term and after the first day of the third year each Extension Term until the end of that Extension Term, either party may terminate this Agreement for convenience by providing written notice to the other party at least one hundred and eighty (180) days before the desired termination date.

ARTICLE 5 INSURANCE

5.1 Insurance. Contractor shall maintain insurance policies and coverage limits as provided in Appendix B.

ARTICLE 6 INDEMNIFICATION

6.1 Indemnification. Contractor shall protect, defend, and hold the Board and its commissioners, officers, directors, employees and agents harmless from and against all liabilities, losses, suits, claims, judgments, settlements (whether by arbitration or litigation), penalties, fines, damages, expenses, or demands arising out of or incident to this Agreement, the Contractor's use or occupancy of the Airport, or the Contractor's provision of Services as contemplated by this Agreement, regardless of where the injury, death, act or damage may occur, including, but not limited to the following:

- A. A failure by Contractor to perform any of the terms or conditions of this Agreement;
- B. Any occurrence, personal injury or property damage happening on, about or adjacent to the Airport resulting from the provision of Services or other conduct or operations at the Airport;
- C. Any occurrence, personal injury or property damage happening resulting from any act or omission to act on the part of Contractor's agents, employees, invitees or guests;
- D. A failure by Contractor to comply with any law, ordinance, rule or regulation of any governmental authority, or any department or agency thereof, including but not limited to any and all health and sanitation, environmental, or other such provisions; or

6.2 Limitation. Contractor's obligations pursuant to this Article 6 shall not extend to the percentage of liabilities, losses, suits, claims, judgments, settlements, penalties, fines, damages, expenses, or demands attributable to the negligence or willful misconduct of the Board or its commissioners, officers, directors, employees and agents.

6.3 Notice; Approval of Counsel. Board shall give Contractor reasonable notice of any such claims or actions of the type set forth in Section 6.1. Contractor shall also use counsel reasonably acceptable to Board in carrying out its obligations hereunder.

6.4 Survival of Indemnification. The indemnification provisions of this Article 6 shall survive the expiration or earlier termination of this Agreement.

ARTICLE 7

ENVIRONMENTAL COMPLIANCE

7.1 Environmental Definitions.

- A. Toxic or Hazardous Substances. Toxic or hazardous substances shall be interpreted broadly to include, but not be limited to, any material or substance that is defined or classified under federal, state, or local laws as: (a) a “hazardous substance” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601(14), Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. §1321, as now or hereafter amended; (b) a “hazardous waste” pursuant to Section 1004 or Section 3001 of the Resources Conservation and Recovery Act, 42 U.S.C. §§6903, 6921, as now or hereafter amended; (c) a toxic pollutant under Section 307(a)(1) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(a)(1); (d) a “hazardous air pollutant” under Section 112 of the Clean Air Act, 42 U.S.C. §7412, as now or hereafter amended; (e) a “hazardous material” under the Hazardous Materials Transportation Uniform Safety Act of 1990, 49 U.S.C. App. §1802(4), as now or hereafter amended; (f) toxic or hazardous pursuant to regulations promulgated now or hereafter under the aforementioned laws; or (g) presenting a risk to human health or the environment under other applicable federal, state, or local laws, ordinances, or regulations, as now or as may be adopted or promulgated in the future. Toxic or hazardous substances shall also mean any substance that after release into the environment and upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or directly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer, or genetic abnormalities. Toxic or hazardous substances specifically include, but are not limited to, asbestos, polychlorinated biphenyls (“PCBs”), petroleum and petroleum-based derivatives, and urea formaldehyde.
- B. Release. Release shall mean any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration of hazardous materials including the abandonment or discarding of barrels, containers or other closed receptacles containing hazardous materials into the indoor or outdoor environment.
- C. Environmental Laws. Environmental laws shall mean federal, state and local laws, statutes, ordinances and regulations, now or hereafter in effect, relating to the regulation and protection of human health, safety, the environment and natural resources. Environmental laws include, but are not limited, to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §9601 et seq.); the Toxic Substance Control Act, as amended (42 U.S.C. §2601 et seq.); the Clean Air Act as amended (42 U.S.C. §7401 et seq.).
- D. Knowledge. Knowledge shall mean information available to the Airport Executive Director, including that obtained after inquiry of Board personnel then or within the last twelve (12) months assigned to the Airport, and Board personnel either having, (i) duties relating to environmental conditions at the Airport, or (ii) duties relating to the

supervision or oversight of the Airport Executive Director. Neither the investigation to determine the existence or status of such matter, nor independent investigation to determine the accuracy or completeness of any representation, warranty, data or other information, will be required on the part of the Board or Airport Executive Director.

7.2 Environmental Indemnity.

- A. To the extent Contractor is determined to be liable for what?, Contractor agrees to indemnify, defend with counsel reasonably acceptable to Board, and hold Board and its officers, employees, contractors and agents harmless from any claims, investigations, judgments, damages, penalties, fines, expenses, liabilities or losses, including attorneys' fees, arising during or after the Agreement term, as extended if at all, out of or in any way relating to the presence, release, or disposal of toxic or hazardous substances on or from the Airport by Contractor, its officers, employees, contractors, invitees, guests or agents, or to a breach of the environmental warranties made by Contractor unless the toxic or hazardous substances are present as a result of the actions of third parties or the Board, its officers, employees, contractors, invitees, guests or agents. Contractor's indemnification of Board shall include costs and expenses incurred in connection with toxic or hazardous substances that migrate, flow, percolate, diffuse, or in any way move onto, under, above or appurtenant to the Airport as a result of Contractor's providing Services or otherwise conducting any operations, or as a result of any discharge, dumping, or spilling (accidental or otherwise) by Contractor, its officers, employees, contractors, invitees or agents, on or about the Airport.
- B. The indemnification provided by this Section shall also specifically cover costs incurred in connection with any investigation of site conditions or any cleanup, remediation, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision or other third party because of the presence of toxic or hazardous substances in the air, improvements, systems, soil, groundwater, or soil vapor on, above or under the Airport, unless the toxic or hazardous substances are present as a result of the actions of third parties or the other party, their respective officers, employees, contractors, agents, invitees and guests. Those costs may include, but are not limited to, sums paid in settlements of claims, attorneys' fees, consultants' fees, experts' fees and court costs.
- C. The foregoing environmental indemnity shall survive the expiration or earlier termination of this Agreement and/or any transfer of all or any portion of any interest in this Agreement.

7.3 Environmental Inspections.

- A. Board shall have the right, at its expense, to have any area of the Airport which is suspected as having been exposed to toxic or hazardous substances by Contractor inspected at any time during or within thirty (30) days following the expiration or earlier termination of this Agreement for the purpose of determining the presence of toxic or hazardous substances. Board shall deliver a copy of any such report to Contractor within fourteen (14) days of Board's receipt of a report. If Contractor disputes the conclusions of the report, or the manner in which the inspection was performed, Contractor may, at its expense, have the premises inspected, and shall

thereafter, within fourteen (14) of its receipt of an environmental report, deliver same to Board. If such toxic or hazardous substances are found for which Contractor is determined to be responsible, Contractor shall immediately implement a remediation plan, which plan shall be made known to the Airport Executive Director prior to implementation.

- B. Within the last two (2) months of the Agreement term, as extended, if at all, Contractor shall have the right to have any area of the Airport, other than areas subject to exclusive lease to third parties, inspected at its expense for the purpose of determining the presence of toxic or hazardous substances. Contractor shall deliver a copy of such report, if an inspection is performed, to the Board within fourteen (14) days of Contractor's receipt of the report. If Board disputes the conclusions of the report, or the manner in which the inspection was performed, Board may, at its expense, have the premises inspected within sixty (60) days after its receipt of the environmental report obtained by Contractor and shall thereafter, within five (5) days of its receipt of the environmental report, deliver same to Contractor. If Board does not dispute Contractor's report, the finding of such report with respect to the environmental condition of the premises as of the date of such inspection shall be conclusive and binding as between Board and Contractor. If Board obtains its own environmental report which materially differs from Contractor's report within the time aforesaid, neither report shall be binding unless Board and Contractor so agree or as determined by arbitration or other action.

7.4 Notification Requirements. Contractor shall notify the Board and Airport Executive Director immediately upon, and confirm same in writing within twenty-four (24) hours of, obtaining knowledge of any spill or release of any toxic or hazardous substances, any failure to comply with any federal, state, or local law or with any regulation or ordinance, any inspection of any site on, below, above or adjacent to the Airport by any regulatory entity concerning the same, any notice, order, fine, or communication of any kind from any governmental entity or third party that relate to the presence or suspected presence of any toxic or hazardous substances at or adjacent to the Airport, or the migration or suspected migration of any toxic or hazardous substance from other property onto, over or beneath any site on or adjacent to the Airport and all responses or interim clean up action taken by or proposed to be taken by any government entity or private party with respect to such contaminated site. If different from the foregoing, Contractor shall comply with all notice provisions required under the environmental laws to be given to the Board, third parties and the public.

7.5 Exception to Liability. Notwithstanding anything herein to the contrary, Contractor shall not be liable for indemnifying, defending, or holding harmless Board and its officers, employees, contractors, and agents from any liability arising under this Article 7 to the extent that such liability arises from the use of chemical fire-fighting foam used in drills, tests and actual operations.

ARTICLE 8

DISPUTES

8.1 The Parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement promptly by negotiation between the Airport Executive Director and a senior representative from Contractor who has authority to settle the controversy.

8.2 Either party may give the other party written notice of any dispute. The notice must include a statement of such party's position and a summary of the evidence and arguments supporting its positions, and (ii) the name and title of the individual who is to represent such party in the dispute. Within 30 days after receipt of said notice, the other party shall submit a written response. Contractor's representative and the Board's representative shall meet at a mutually acceptable time and place within forty-five (45) days of the date of the initiating party's notice and thereafter as often as they reasonably deem necessary to exchange relevant information and to attempt to resolve the dispute. The notice, and the responding party's response, shall not be deemed an admission on the part of either party and may not be used as evidence for any purpose.

8.3 If the matter has not been resolved pursuant to the aforesaid procedure within 60 days receipt of such notice of dispute, either party may initiate litigation upon 10 days written notice to the other party. The Contract shall be governed by the laws of the State of South Dakota with venue and jurisdiction in the Seventh Judicial Circuit Court of the State of South Dakota.

ARTICLE 9

DEFAULT AND TERMINATION

9.1 Events of Default by Contractor. Each of the following events shall constitute a default by Contractor under this Agreement:

- A. Contractor's failing to perform any provision or covenant, or failing to satisfy any condition of this Agreement within fifteen (15) days after receipt of written notice of such default or, if the performance thereof requires more than fifteen (15) days to complete, Contractor's failing to begin performance thereof within such fifteen-day period and proceeding diligently to completion thereafter;
- B. Assignment or subcontracting of this Agreement to a third party without first obtaining Board's approval as required herein;
- C. Dissolution, merger or consolidation, or transfer of a substantial part of the assets of Contractor;
- D. Contractor's repeated violation of the same provision or any three or more different provisions of this Agreement within any twelve (12) month period; or
- E. Contractor or its employees causing damage to Board's equipment or improvements, other than in the line of duty or training, regardless of whether such damage is covered by insurance, amounting to in excess of Twenty Thousand Dollars (\$20,000.00) in any twelve (12) month period.

9.2 Events of Default by Board. Each of the following events shall constitute a default by Board under this Agreement:

- A. Board's failing to perform any provision or covenant, or failing to satisfy any condition of this Agreement, with fifteen (15) days after receipt of written notice of such default, or if the performance thereof requires more than fifteen (15) days to complete, Board's failing to begin performance thereof within such 15-day period and proceeding diligently to completion thereafter; or
- B. The revocation of all certifications of the Airport by the FAA.

9.3 Remedies. Upon the occurrence of any such event of default identified in Section 9.1 or

9.2, as the case may be, the non-defaulting party shall have the option to pursue any one or more of the following remedies, in addition to any other remedies available under applicable law or in equity:

- A. Terminate this Agreement by providing the defaulting party notice of such termination, in which event Contractor shall immediately and peacefully surrender its occupancy of any premises on or about the Airport to the Board;
- B. Cover the defaulting party's default in any commercially reasonable manner, the costs of such cover to be a charge against the defaulting party, the defaulting party agreeing to reimburse the non-defaulting party on demand for any expenses which the non-defaulting party may incur in effecting cover of the defaulting party's obligations under this Agreement.

9.4 Remedies Cumulative; No Waiver. Except as otherwise provided by statute, rule of law or this Agreement, pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies provided for herein or any other remedies provided by law or equity, all of which may be enforced cumulatively. Pursuit of any remedy provided for herein shall not constitute waiver of any damages accruing to the non-defaulting party by reason of the violation of any of the terms, provisions and covenants arising under this Agreement. Failure by the Board to enforce one or more of the remedies herein provided upon an event of default by Contractor shall not be deemed or construed to constitute a waiver of such default, or of any other violation or breach of any of the terms, provisions and covenants contained herein.

ARTICLE 10

ASSIGNMENT AND SUBCONTRACTING

10.1 Assignment. Contractor may not assign this Agreement, or any of Contractor's obligations under this Agreement, to any third party without first obtaining the Board's written consent, which consent may be withheld in the Board's sole discretion. Any action by Contractor to assign this Agreement without the Board's consent shall constitute an event of default and cause for termination by Board as provided herein. Board's consent shall not be required for any assignment by Contractor to a parent or subsidiary of Contractor or for any assignment that occurs by operation of the merger, sale or acquisition of all or substantially all of Contractor's assets, provided that Contractor shall provide Board with advance written notice of any such event.

10.2 Subcontracting. Contractor may not subcontract with any third party to provide or perform any or all of the Services without first obtaining the Board's written consent. Without limiting the generality of the foregoing, it is the Board's intent that all of the Services shall be performed by Contractor with Contractor's own employees.

10.3 Assignment by Board. Board shall have the unrestricted right to assign this Agreement at any time to any public or private entity that assumes ownership, operation or management of the Airport, and, in the event of such assignment, Board shall be relieved of all liabilities excepting only those liabilities arising prior to the date of such assignment.

ARTICLE 11

NON-DISCRIMINATION AND EQUAL EMPLOYMENT

11.1 Non-Discrimination. Contractor shall comply with the non-discrimination requirements contained in Appendix C.

11.2 Equal Employment. In all printed or circulated solicitations or other advertisements for employees placed by or on behalf of Contractor, Contractor shall state that all qualified applicants shall receive meaningful consideration for employment without regard to race, creed, color, religion, sex, national origin, age or ancestry. All advertisements or solicitations for applicants for employment must contain the phrase "An Equal Opportunity Employer". Contractor shall not make inquiry in connection with prospective employment which expresses, directly or indirectly, any limitation, specification or discrimination because of race, creed, color, religion, sex, national origin, age or ancestry.

ARTICLE 12

MISCELLANEOUS PROVISIONS

12.1 No Personal Liability. No commissioner, director, officer, employee or other agent of either party shall be personally liable under or in connection with this Agreement absent such person's express written undertaking to the contrary. Each of the parties acknowledges and agrees that in entering into this Agreement, and the documents referred to in it, such party does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether intentionally, negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement as representations and warranties.

12.2 Agreements with the United States. This Agreement is subject and subordinate to the provisions of any agreements made on or prior to the date of this Agreement, and as hereafter renewed, executed or replaced, between the Board and the United States relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to the Board for Airport purposes, or to the expenditure of federal funds for the development of the Airport.

12.3 Modifications for Granting FAA Funds. In the event that the Federal Aviation Administration requires modifications or changes to this Agreement as a condition precedent to granting funds for the improvement of the Airport, Contractor agrees to consent to such reasonable amendments, modifications, revisions, supplements or deletions of any of the terms, conditions or requirements of this Agreement as may be required to enable the Board to obtain said Federal Aviation Administration funds.

12.4 Binding Effect. This Agreement and each and every one of the terms, conditions, covenants and obligations contained herein shall be for the benefit of and be binding upon the Board and Contractor, and their respective permitted successors and assigns.

12.5 Separability. Each and every covenant and agreement contained in this Agreement shall be for all purposes construed to be a separate and independent covenant and agreement, and the breach of any covenant or agreement contained herein by either party shall in no way or manner discharge or relieve the other party from its obligation to perform each and every covenant and agreement herein.

12.6 Partial Invalidity. If any covenant, term or condition of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition of this Agreement, shall be valid and be enforceable to the fullest extent permitted by law.

12.7 Applicable Law. This Agreement shall be deemed for all purposes to have been made in the State of South Dakota and shall be governed by and construed in accordance with the laws of said state, notwithstanding either said state's choice of law provisions or the place of execution hereof, nor the performance of the acts in connection herewith or hereunder occurring in any other jurisdiction. Venue for any action relating to this Agreement shall be in the Seventh Judicial Circuit Court of Pennington County. The Parties hereby agree to submit to the jurisdiction of said court.

12.8 Time of the Essence. It is specifically declared that time is of the essence in all provisions of this Agreement.

12.9 Paragraph Headings. The headings of the various sections of this Agreement have been inserted for convenient reference only and shall not in any manner be construed as modifying, amending or affecting in any way the express terms and provisions hereof.

12.10 Entire Agreement. This Agreement and the exhibits attached or referred to in it shall constitute the entire agreement between the Parties. Any prior understanding or representation of any kind preceding the execution hereof shall not be binding upon either party except to the extent incorporated in this Agreement.

12.11 Modification of Agreement. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

12.12 Relationship of the Parties. It is the express intention of the parties that this Agreement shall not be construed as creating any relationship hereunder other than that of Owner and Contractor and no other relationships, such as one of partnership, joint venture or otherwise, shall arise by reason hereof. Furthermore, except as expressly set forth in this Agreement, nothing shall be construed as authorizing either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way, including but not limited to the making of any representation or warranty, the assumption of any obligation or liability, and the exercise of any right or power.

12.13 Force Majeure. Neither the Board nor Contractor shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages of materials, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage or any other circumstances for which it is not responsible or which are not within its control.

12.14 Previous Agreements. It is expressly understood that the terms and obligations of this Agreement shall in no way affect or impair the terms, obligations or conditions of any existing or prior agreement between Contractor and the Board.

12.15 Construction of Agreement. Words of any gender in this Agreement shall be held to include any other gender, and words in the singular number shall be held to include the plural when the context requires. Whenever used herein, the word "Contractor" shall be deemed to include its approved successors and assigns and the word "Board" shall be deemed to include the Airport Executive Director and their respective successors and assigns, unless the context excludes such

construction. Each party acknowledges that both parties participated equally in drafting this Agreement and, accordingly, no court construing this Agreement shall construe it more stringently against one party or the other.

12.16 Waivers. No waiver of default by either party of any of the terms, covenants and conditions hereto to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained to be performed, kept and observed by the other party. A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement will not prevent a party from subsequently requiring compliance with the waived obligation. The rights and remedies provided by this Agreement are cumulative and (except as otherwise provided in this Agreement) are not exclusive of any rights or remedies provided by law.

12.17 Survival of Covenants. Any covenant or obligation imposed on Board or Contractor by the terms of this Agreement which requires any performance on the part of Board or Contractor, as the case may be, after the expiration or earlier termination of this Agreement shall be deemed to survive such expiration or earlier termination.

12.18 Notice. A notice, demand or other communication under this Agreement from one party to the other shall be sufficiently given or delivered on the date of deposit in the United States mail as registered or certified mail, postage prepaid, return receipt requested, provided however, in the event of service as provided herein by this subsection, the recipient shall have an additional three (3) days from the date of postmark to respond or otherwise take action as permitted under this Agreement; or on the date of facsimile transmission from one party to the other, provided that such notice, demand or other communication is also deposited in the United States mail, as registered or certified mail, postage prepaid the same date as facsimile transmission:

In the case of Board, to: Rapid City Regional Airport
Attention: Executive Director
4550 Terminal Rd., #102
Rapid City, SD 57703

Copy to: Rapid City Attorney's Office
300 6th Street
Rapid City, SD 57701

In the case of Contractor, to:

or to such other address or person as either party may hereafter designate in writing to the other party.

12.20 Counterparts. This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original and such counterparts shall together constitute and be one and the same instrument.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

**RAPID CITY REGIONAL
AIRPORT BOARD**

CONTRACTOR

By: _____
Robert Hall, President

By: _____
Typed Name & Title

ATTEST:

By: _____
Bob Conway, Secretary

[END OF AGREEMENT]

APPENDIX A: SPECIFICATIONS
PERFORMANCE SPECIFICATIONS TO PROVIDE
ARFF SERVICES

A. Staffing:

To provide the services required, the Contractor shall assign to the Airport the following staff for the initial year of this Agreement:

- Full-time ARFF officers whose work schedule shall be adequate to cover Airport operations twenty-four (24) hours per day, seven (7) days per week.

The Contractor shall schedule onboarded resources, comply with all applicable regulations and statutes concerning days of rest for fire and operations personnel during periods of employee vacation, sick leave, etc. For the second and subsequent years of this Agreement, Contractor staffing and requirements shall be adequate to cover Airport operations for a twenty-four (24) hours per day, seven (7) day per week.

B. Employee Qualifications and Duties Applicable to All Positions:

- I. Must be at least eighteen (18) years of age.
- II. Must be a citizen or lawful resident of the United States.
- III. Must possess a high school diploma or equivalent.
- IV. Must possess a valid state motor vehicle operator's license throughout the employee's employment.
- V. Must possess a commercial driver's license throughout the employee's employment.
- VI. Must pass a physical fitness exam as may be required by applicable law and maintain the required fitness level and pass required tests throughout the employee's employment.
- VII. Must pass a Transportation Security Agency (TSA) background check.
- VIII. A felony Driving Under the Influence (DUI) conviction will be disqualifying.
- IX. Must have and maintain a current CPR and AED certification.
- X. Must possess a Firearms Owner Identification Card (FOID).
- XI. Position involves shift work.
- XII. Must have ability to make decisions under emergency conditions that affect lives, safety and property of others.
- XIII. Must have ability to supervise personnel and to direct and coordinate all public safety personnel.

- XIV. Must have ability to prepare reports on public safety work.
- XV. Must have ability to establish and maintain relations with other employees, Airport tenants, and the general public.
- XVI. Must meet all FAR 139 training requirements for Aircraft Rescue and Firefighting.
- XVII. Must hold Fire Instructor 1 and Fire Officer 1 Certification.
- XVIII. Knowledge of common computer software and skills.
- XVIII. All required skills, knowledge, experience or certification must comply with terms of this Agreement or be waived in writing by Airport Executive Director.

C. Minimum Personnel Qualifications:

I. Fire Chief

Education: Bachelor's degree or equivalent professional experience. Graduate of Executive Officer or Leadership program preferred.

Experience: Minimum of 10 years' experience in an airport, municipal and/or military emergency service. Minimum of 5 years in a supervisory position.

Certifications: Firefighter I & II or higher, Fire Officer I & II or higher, Haz-Mat Operations Level or higher, Emergency Medical Technician, and NIMS/ICS Management Certifications.

Duties:

- I. Layout, assign, schedule, and coordinate the work of the Departmental personnel.
- II. Supervise the shift crews in the care and maintenance of equipment, standby details, fire prevention, safety and security inspections, and other assignments.
- III. Direct the instruction and training of public safety personnel.
- IV. Develop standard operating procedures governing response to and operations at firefighting, crash landing, rescue incidents, medical emergencies, security incidents and law enforcement incidents.
- V. Respond to the above-cited incidents and take command of Public Safety activities, including assessment of the techniques to be employed in individual aircraft rescue and firefighting and security incidents.
- VI. Recommend and implement new or revised departmental regulations and procedures.

- VII. Assist in developing and updating mutual aid plans for Public Safety operations with local officials and departments.
- VIII. Be responsible for the care and maintenance of equipment and the cleanliness of the quarters and adjacent areas.
- IX. Approve requisition of supplies and equipment and assist in preparing specifications for equipment.
- X. Assist in the preparation of the annual budget.
- XI. Maintains all necessary public safety services records and reports.
- XII. Coordinate, assist and direct as required federal, state and local agencies in matters relating to aircraft rescue and firefighting.
- XIII. Maintain the Airport Emergency Plan (AEP) in accordance with 14 CFR Part 139 criteria and all emergency action checklists and procedures in the AOC.
- XIV. Ensure the components of the Airport Training Program related to the scope of this contract meet 14 CFR Part 139 audit compliance criteria.
- XV. Monitor operations of security cameras and gate systems.
- XVI. Conduct exercises required to comply with 14 CFR Part 139.

II. Fire Captain

Education: Associates degree or equivalent professional experience acceptable to the Airport Executive Director.

Experience: Minimum of 5 years' experience in an airport, municipal and/or military emergency service.

Certifications: Firefighter I or higher, Fire Officer I or higher, Haz-Mat Operations Level or higher, Emergency Medical Technician, and NIMS/ICS Management Certifications

Skills and Knowledge:

- I. Must have knowledge of fire suppression, fire prevention and combat (tactical) techniques, particularly as applied to the saving of lives and aircraft.
- II. Must have knowledge of the basic regulations related to fire combat and lifesaving procedures.
- III. Must have knowledge of the equipment, materials and vehicles required for airport firefighting and lifesaving.
- IV. Must have the ability to direct other personnel while performing the same duties.

- V. Must have the ability to prepare explicit reports on the handling of routine and emergency duties.
- VI. Must have the ability to maintain morale among other personnel.
- VII. Must be Airport Fire Fighter Certified by Contractor's Instructor within six months of start date.
- VIII. All required skills, knowledge, experience, or certification must comply with the terms of this Agreement or be waived in writing by the Airport Executive Director.

Duties:

- I. Assist in the training of personnel assigned to shift.
- II. Assign duties to personnel assigned to shift.
- III. Prepare daily station log and any other reports that are required.
- IV. Assist, under the direction of the Fire Chief, in the supervision of Aircraft Rescue and Firefighting operations occurring on the assigned shift.
- V. Act as the Senior Fire Official in the absence of the Fire Chief.

III. Firefighter

Education: Associates degree or equivalent professional experience acceptable to the Airport Executive Director.

Experience: Minimum of 1 years' experience in an airport, municipal and/or military emergency service.

Certifications: Firefighter I or higher, Emergency Medical Technician, and NIMS/ICS Management Certifications.

D. Removal from Service

The Airport Executive Director may require Contractor to remove and replace any individual who is not qualified or who otherwise fails to meet the terms of this Agreement or to comply with the Airport's Rules and Regulations. In giving such a direction, the Airport Executive Director will reasonably consult with Contractor and provide a basis for any such direction where such basis must be such that it would not violate applicable law in the termination of an employee.

APPENDIX B: INSURANCE REQUIREMENTS

Standard Insurance Certificate Requirements

Contractor agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this contract the following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as Board's review or acceptance of insurance maintained by Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this contract.

Certificates of Insurance

The Contractor shall provide Board with valid certificates of insurance prior to commencement of work verifying said insurance requirements have been met. Attached to each certificate of insurance, shall be a copy of the Additional Insured Endorsement that is part of the Contractor's Commercial General Liability Policy. Each certificate of insurance shall provide that the insurer must give the Board at least thirty (30) days' prior written notice of cancellation, non-renewal, or modification of the Contractor's coverage thereunder. Not less than two (2) weeks prior to the expiration, cancellation or termination of any such policy, the Contractor shall supply the Board with a new certificate of insurance and Additional Insured endorsement as proof of renewal of said original policy. Said new endorsements shall be similarly endorsed as referenced above.

Policies must be issued by companies with an A.M. Best rating of A-VII or better. All deductibles or Self-Insured Retentions for each policy shall not exceed \$10,000.00 without Board's prior written approval. The Description section of the certificate shall contain reference to the Project name. The Contractor shall ensure that each subcontractor complies with the terms of this Section.

Workers' Compensation

Regardless of any "minimum requirements" of the State of South Dakota, Contractor shall obtain Workers' Compensation insurance covering all workers involved in the Project. Where applicable, U.S. Longshore and Harborworkers Compensation Act Endorsement and/or Maritime Coverage Endorsement shall be attached to the policy. Contractor shall also obtain Employers Liability insurance with minimum limits of \$1,000,000 each accident, \$1,000,000 disease limits, and \$1,000,000 each employee.

Commercial General Liability

Contractor shall obtain Commercial General Liability coverage with the following minimums:

- \$1,000,000 each occurrence (combined single limit for bodily injury and property damage)
- \$2,000,000 Products/Completed Operations aggregate
- \$1,000,000 Personal and Advertising Injury per person/organization
- \$2,000,000 general aggregate per project

Coverage shall include: (a) Contractual Liability, (b) Premises and Operations, (c) Products and Completed Operations, (d) Independent Contractors Coverage, (e) Personal and Advertising

Injury and (f) Explosion, Collapse and Underground- XCU (when applicable). ***Waiver of Subrogation in favor of the Airport is required.***

Coverage shall be no less comprehensive and no more restrictive than the coverage provided by ISO standard Commercial General Liability Policy form ISO CG 0001 including standard exclusions or a non-ISO equivalent form.

Automobile Liability

Contractor shall obtain a minimum of \$1,000,000 combined single limit coverage per accident, including owned, hired and non-owned automobiles. *(If the Contractor does not own an automobile, but one is used in the execution of the contract, then only "hired and non-owned coverage" is required. If a vehicle is not used in the execution of the contract then automobile coverage is not required.)*

Pollution Liability

Pollution Liability that covers bodily injury and property damage liability arising from removal/abatement operations with limits not less than \$5,000,000. If you do not conduct these activities, this coverage does not apply.

Professional Errors and Omissions

Contractor is required to maintain minimum limits of \$10,000,000 each claim and policy aggregate, an extended discovery period to apply for at least two (2) years after Contractor's work is accepted by Board and a deductible not to exceed \$10,000, for which Contractor will remain solely responsible for, shall apply. *OPTION-* If the SIR exceeds \$10,000 then Board shall have the right to review the CMAR's most recent Audited financial statement.

Commercial Umbrella

Contractor shall obtain Umbrella Liability over and above the limits of liability required in the Employers Liability, General Liability, and Automobile Liability policies. The Umbrella coverage form will be at least as broad as the underlying policies. The Additional Insureds requirements of underlying policies shall also be met by the Umbrella. The Umbrella limits shall be sufficient so that the sum of the underlying and Umbrella limits shall be at least \$10,000,000 per line of coverage. ***Waiver of Subrogation in favor of the Airport is required.***

Additional Insureds

These liability policies shall endorse "City of Rapid City and the Rapid City Regional Airport Board, individually and collectively, and its representatives, officers, officials, employees, agents and volunteers" as an **Additional Insured**. Forms that are limited to "liability arising out of your ongoing operations" or that do not extend to Products and Completed Operations are not acceptable. Should a separate excess and/or umbrella liability policy be used to satisfy the above required limits, said policy will also be endorsed to include the CITY OF RAPID CITY RAPID CITY REGIONAL AIRPORT BOARD et al. as an additional insured. Additionally, Contractor agrees to continue to procure and maintain liability insurance coverage meeting these

requirements for the statutory limitation of claims (or statute of repose, if applicable) after the Project completion.

The policies shall be endorsed to stipulate that the insurance afforded the additional insureds shall apply as primary insurance and that any other insurance or self-insurance maintained by Board shall be excess only and shall not be called upon to contribute with this insurance. A copy of each endorsement shall be attached to the Certificate of Insurance. The Certificate shall indicate the Certificate Holder as:

Rapid City Regional Airport Board
4550 Terminal Rd., #102
Rapid City, SD 57703

Insurance Requirements for Subcontractors

Contractor shall ensure that subcontractors of any tier shall procure and maintain insurance that complies with the requirements set forth above, including the additional insured, primary and non-contributory and waiver of subrogation requirements. Copies of the certificate(s) must be provided prior to the subcontractors performing any work.

Cancellation

Each policy shall be endorsed to provide that the insurance company agrees that the policy shall not be canceled, changed, allowed to lapse or allowed to expire for any reason until thirty days after the Board has received written notice. *Written notifications shall be sent to: Rapid City Regional Airport, 4550 Terminal Rd., #102, Rapid City, SD 57703.*

Indemnity & Hold Harmless Agreement

Contractor shall indemnify, defend and hold harmless Board and its affiliates, and all of their employees, officers, directors, shareholders, etc. (collectively "Indemnitees") from and against any and all claims, demands, losses, damages, liabilities, expenses, obligations, judgments, recoveries and deficiencies, arising out of or resulting from the performance of the services of this contract; provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom and (ii) is caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Contractor will not be liable hereunder to the extent that such liabilities or losses directly result from the sole negligence or willful misconduct of any Indemnitee. Contractor shall, upon request, defend any suit asserting a claim covered by this indemnity.

Waiver of Subrogation

Contractor shall waive its right to subrogation on each of the policies herein. If any of the policies do not permit the insured to enter into a pre-loss waiver, or voids coverage because of same, there this Waiver of Subrogation requirement shall not apply and Contractor shall obtain a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. Insurance required by this

Agreement shall be as broad as necessary to support the indemnification requirement in said contract or as broad as the indemnitor's insurance coverage, whichever is broader.

Subcontractors

Contractor shall include each of its subcontractors as insureds under the policies of insurance required herein. The Contractor shall require that any of its agents, and subcontractors who perform work and/or services on behalf of the Contractor purchase and maintain the types of insurance customary for the services being provided.

Occurrence vs. Claims-Made:

All policies must be written on an occurrence basis with exception of professional liability, which can be written on a claims-made basis. If the professional liability coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the Effective Date of this Agreement and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years following the expiration or termination of this Agreement.

Right to Revise or Reject:

RAP reserves the right, but not the obligation, to review and revise any insurance requirement, not limited to limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work/ specifications affecting the applicability of coverage. Additionally, RAP reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein or any insurer providing coverage due.

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EXHIBIT C
NON-DISCRIMINATION

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as identified in the Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If Contractor transfers its obligation to another, the transferee is obligated in the same manner as Contractor. This provision obligates Contractor for the period during which the property is used or possess by Contractor and the Airport remains obligated to the FAA. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

- a. During the performance of this Agreement, Contractor for itself, its assignees, and successors in interest, agrees to comply with the following non-discrimination statutes and authorities:
 - i. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. (prohibits discrimination on the basis of race, color, national origin);
 - ii. 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964);
 - iii. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601 (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
 - iv. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 et seq. (prohibiting discrimination on the basis of disability), and 49 CFR Part 27;
 - v. The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 (prohibits discrimination on the basis of age);
 - vi. Airport and Airway Improvement Act of 1982, as amended, 49 U.S.C. § 47123 (prohibits discrimination based on race, creed, color, national origin, or sex);
 - vii. The Civil Rights Restoration Act of 1987 (broadening the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
 - viii. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. § 12131-12189) as implementing by U.S. Department of Transportation Regulations at 49 CFR Parts 37 and 38;
 - ix. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123 (prohibits discrimination on the basis of race, color, national origin, and sex);

- x. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
 - xi. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficient (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and
 - xii. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq.)
- b. During the performance of this Agreement, Contractor, for itself, its assignees, and successors in interest, agrees as follows:
- i. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
 - ii. Nondiscrimination: Contractor, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
 - iii. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Contractor of contractor's obligations under this Agreement and the Nondiscrimination Acts and Authorities.
 - iv. Information and Reports: Contractor will provide all information and reports required by the Acts, the Regulations, and 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 Board or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, Contractor will so certify to the Board or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

- v. Sanctions for Noncompliance: In the event of Contractor's noncompliance with the non-discrimination provisions of this Agreement, the Board will impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to, cancelling, terminating, or suspending this Agreement, in whole or in part.
- vi. Incorporation of Provisions: Contractor will include the provisions of this subsection in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. Contractor will take action with respect to any subcontract or procurement as the Board or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Contractor may request the Board to enter into any litigation to protect the interests of the Board. In addition, Contractor may request the United States to enter into the litigation to protect the interests of the United States.

Specimen

EXHIBIT B INSURANCE REQUIREMENTS

Proposer agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this contract the following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as RAP's review or acceptance of insurance maintained by Proposer is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Proposer under this contract.

Insurance Requirements:

Prior to commencing work, the Proposer shall procure and maintain at Proposer's own cost and expense for the duration of the agreement the following insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the work or services hereunder by the Proposer, his agents, representatives, employees, or subcontractors. The cost of such insurance shall be included in Proposer's proposal.

Certificates of Insurance

The SERVICE PROVIDER shall provide RAPID CITY REGIONAL AIRPORT with valid certificates of insurance prior to commencement of work verifying said insurance requirements have been met. Attached to each certificate of insurance, shall be a copy of the Additional Insured Endorsement that is part of the SERVICE PROVIDER's Commercial General Liability Policy. Each certificate of insurance shall provide that the insurer must give the RAPID CITY REGIONAL AIRPORT at least thirty (30) days' prior written notice of cancellation, non-renewal, or modification of the SERVICE PROVIDER's coverage thereunder. Not less than two (2) weeks prior to the expiration, cancellation or termination of any such policy, the SERVICE PROVIDER shall supply the RAPID CITY REGIONAL AIRPORT with a new certificate of insurance and Additional Insured endorsement as proof of renewal of said original policy. Said new endorsements shall be similarly endorsed in favor of RAPID CITY REGIONAL AIRPORT and RAPID CITY REGIONAL AIRPORT'S parties as set forth above.

Policies must be issued by companies with an A.M. Best rating of A-VII or better. All deductibles or Self-Insured Retentions for each policy shall not exceed \$10,000.00 without RAPID CITY REGIONAL AIRPORT'S prior written approval. The Description section of the certificate shall contain reference to the Project name. The SERVICE PROVIDER shall ensure that each subcontractor complies with the terms of this Section.

Workers' Compensation

Regardless of any "minimum requirements" of the State of South Dakota, SERVICE PROVIDER shall obtain Workers' Compensation insurance covering all workers involved in



the Project. Where applicable, U.S. Longshore and Harborworkers Compensation Act Endorsement and/or Maritime Coverage Endorsement shall be attached to the policy. SERVICE PROVIDER shall also obtain Employers Liability insurance with minimum limits of \$1,000,000 each accident, \$1,000,000 disease limits, and \$1,000,000 each employee.

Commercial General Liability

SERVICE PROVIDER shall obtain Commercial General Liability coverage with the following minimums:

- \$1,000,000 each occurrence (combined single limit for bodily injury and property damage)
- \$2,000,000 Products/Completed Operations aggregate
- \$1,000,000 Personal and Advertising Injury per person/organization
- \$2,000,000 general aggregate per project

Coverage shall include: (a) Contractual Liability, (b) Premises and Operations, (c) Products and Completed Operations, (d) Independent Contractors Coverage, (e) Personal and Advertising Injury and (f) Explosion, Collapse and Underground- XCU (when applicable). The RAPID CITY REGIONAL AIRPORT shall be included as an Additional Insured on this policy. ***Waiver of Subrogation in favor of the Airport is required.***

Coverage shall be no less comprehensive and no more restrictive than the coverage provided by ISO standard Commercial General Liability Policy form ISO CG 0001 including standard exclusions or a non-ISO equivalent form.

Automobile Liability

SERVICE PROVIDER shall obtain a minimum of \$1,000,000 combined single limit coverage per accident, including owned, hired and non-owned automobiles. *(If the SERVICE PROVIDER does not own an automobile, but one is used in the execution of the contract, then only "hired and non-owned coverage" is required. If a vehicle is not used in the execution of the contract then automobile coverage is not required.)*

Additional Insureds

These liability policies shall endorse "City of Rapid City and the Rapid City Regional Airport Board, individually and collectively, and its representatives, officers, officials, employees, agents and volunteers" as an **Additional Insured**. Forms that are limited to "liability arising out of your ongoing operations" or that do not extend to Products and Completed Operations are not acceptable. Should a separate excess and/or umbrella liability policy be used to satisfy the above required limits, said policy will also be endorsed to include the CITY OF RAPID CITY RAPID CITY REGIONAL AIRPORT BOARD et al. as an additional insured. Additionally, SERVICE PROVIDER agrees to continue to procure and maintain liability insurance coverage



meeting these requirements for the statutory limitation of claims (or statute of repose, if applicable) after the Project completion.

The policies shall be endorsed to stipulate that the insurance afforded the additional insureds shall apply as primary insurance and that any other insurance or self-insurance maintained by RAPID CITY REGIONAL AIRPORT shall be excess only and shall not be called upon to contribute with this insurance. A copy of each endorsement shall be attached to the Certificate of Insurance. The Certificate shall indicate the Certificate Holder as:

Rapid City Regional Airport
4550 Terminal Rd., #102
Rapid City, SD 57703

Insurance Requirements for Subcontractors

SERVICE PROVIDER shall ensure that subcontractors of any tier shall procure and maintain insurance that complies with the requirements set forth above, including the additional insured, primary and non-contributory and waiver of subrogation requirements. Copies of the certificate(s) must be provided prior to the subcontractors performing any work.

Professional Errors and Omissions

The SERVICE PROVIDER is required to maintain minimum limits of \$5,000,000 each claim and policy aggregate, an extended discovery period to apply for at least two (2) years after SERVICE PROVIDER's work is accepted by RAPID CITY REGIONAL AIRPORT and a deductible not to exceed \$10,000, for which SERVICE PROVIDER will remain solely responsible for, shall apply. *OPTION-* If the SIR exceeds \$10,000 then RAPID CITY REGIONAL AIRPORT shall have the right to review the CMAR's most recent Audited financial statement.

Commercial Umbrella

SERVICE PROVIDER shall obtain Umbrella Liability over and above the limits of liability required in the Employers Liability, General Liability, Automobile Liability, and Professional Error and Omissions policies. The Umbrella coverage form will be at least as broad as the underlying policies. The Additional Insureds requirements of underlying policies shall also be met by the Umbrella. The Umbrella limits shall be sufficient so that the sum of the underlying and Umbrella limits shall be at least \$5,000,000 per line of coverage. ***Waiver of Subrogation in favor of the Airport is required.***

Cancellation

Each policy shall be endorsed to provide that the insurance company agrees that the policy shall not be canceled, changed, allowed to lapse or allowed to expire for any reason until thirty days after the Owner has received written notice. ***Written notifications shall be sent to: Rapid City Regional Airport, 4550 Terminal Rd., #102, Rapid City, SD 57703.***



Indemnity & Hold Harmless Agreement

SERVICE PROVIDER shall indemnify, defend and hold harmless RAPID CITY REGIONAL AIRPORT and its affiliates, and all of their employees, officers, directors, shareholders, etc. (collectively "Indemnitees") from and against any and all claims, demands, losses, damages, liabilities, expenses, obligations, judgments, recoveries and deficiencies, arising out of or resulting from the performance of the services of this contract; provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom and (ii) is caused in whole or in part by any negligent act or omission of the SERVICE PROVIDER, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. SERVICE PROVIDER will not be liable hereunder to the extent that such liabilities or losses directly result from the sole negligence or willful misconduct of any Indemnitee. SERVICE PROVIDER shall, upon request, defend any suit asserting a claim covered by this indemnity.

Waiver of Subrogation

SERVICE PROVIDER shall waive its right to subrogation on each of the policies herein. If any of the policies do not permit the insured to enter into a pre-loss waiver, or voids coverage because of same, there this Waiver of Subrogation requirement shall not apply and SERVICE PROVIDER shall obtain a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. Insurance required by this Agreement shall be as broad as necessary to support the indemnification requirement in said contract or as broad as the indemnitor's insurance coverage, whichever is broader.

Subcontractors

Proposer / Contractor shall include each of its subcontractors as insureds under the policies of insurance required herein. The SERVICE PROVIDER shall require that any of its agents, and subcontractors who perform work and/or services on behalf of the SERVICE PROVIDER purchase and maintain the types of insurance customary for the services being provided.

Occurrence vs. Claims-Made:

All policies must be written on an occurrence basis with exception of professional liability, which can be written on a claims-made basis. If the professional liability coverage is written on a claims-made basis, Proposer warrants that any retroactive date applicable to coverage under the policy precedes the Effective Date of this Agreement and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years following the expiration or termination of this Agreement.

Right to Revise or Reject:

RAP reserves the right, but not the obligation, to review and revise any insurance

requirement, not limited to limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work/ specifications affecting the applicability of coverage. Additionally, RAP reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein or any insurer providing coverage due.

