

CONTRACT FOR AIRPORT IMPROVEMENTS

Wendover Airport
Wendover, Utah
AIP PROJECT NO. 3-49-0046-24

THIS CONTRACT, is made and entered into this 3rd day of Oct., 2012, by and between the Wendover Airport Authority, hereinafter referred to as the "Owner", and **Oshkosh Corporation**, hereinafter referred to as the "Contractor," for the construction of airport improvement including the procurement of **Schedule I – Acquire New Class 4 ARFF Vehicle, Auxiliary Equipment, and Two Structural Turnout Suits**, and other incidental work at the Wendover Airport, as set forth in the Contract Documents.

IN CONSIDERATION of the compensation to be paid Contractor, and the other terms and conditions of this Contract to be performed, the receipt and sufficiency of which are hereby acknowledged, it is mutually covenanted and agreed between the parties as follows:

ARTICLE 1 DEFINITIONS.

As used in this Contract, the following definitions shall apply:

- 1.1 "Contract" means this Contract for Airport Improvements, and all of the Contract Documents.
- 1.2 "Contract Documents" means those documents within the definition contained in Paragraph 10-13, Section 10 of the General Provisions and consisting of the Invitation for Bid, Instruction to Bidders, all issued Addenda, Proposal, Statement of Qualifications, Anticipated Sub-Contracts, Form of Proposal Guaranty, Notice of Award, Contract Agreement, Performance & Payment bonds, Notice to Proceed, Notice of Contractor's Settlement, General Provisions, Special Provisions, Technical Specifications, attached appendices and all documents incorporated by reference. Said "Contract Documents" are made a part of the Contract as if set out at length herein. Said Contract is limited to the items in the proposal as signed by the "Contractor" and included in the "Contract Documents."
- 1.3 "Engineer" means to Jviation, Inc., 900 S. Broadway, Suite 350, Denver, Colorado, 80209.
- 1.4 "Work" includes all labor, all materials, and all items of equipment and services specified in the Contract Documents, or logically and reasonably required to complete in all respects the Project specified by the Contract Documents.

ARTICLE 2 THE WORK OF THIS CONTRACT.

The intent of this Contract is to provide for construction and completion, in every detail, of the Work. The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others. Contractor shall furnish all labor, equipment, and material and shall perform all work necessary to complete the improvements in a good and substantial manner, ready for use, and in strict accordance with this Contract, a copy of which is filed pursuant to law in the office of the legal representative of the Owner. The Contractor agrees to perform all the work describe in the Contract Documents for the unit prices

and lump sums as submitted in the Bid, taking into consideration additions to or deductions from the Total Bid by reason of alterations or modifications of the original quantities or by reason of "Extra Work" authorized under this Contract in accordance with the provisions of the Contract Documents.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION.

The Contractor agrees to commence work within ten (10) calendar days after the receipt of a notice to proceed and the Contractor further agrees to complete said work within 275 Calendar Days thereof. Extensions of the Contract time may only be permitted by the execution of a formal written modification to this Contract signed by the Owner. Liquidated damages in the amount of \$500 per Calendar Day shall be paid to the Owner for that time which exceeds the number of Calendar Days allowed in this paragraph. Time is of the essence in this Contract.

ARTICLE 4 CONTRACT SUM.

- 4.1 Owner shall pay Contractor for its performance of the Contract the Contract Sum of **five hundred forty thousand, three hundred thirty eight Dollars (\$ 540,338.00)**, subject to additions and deductions as provided in the Contract Documents. No claim for extra work done, materials furnished by Contractor, delay or acceleration will be allowed except as provided by the Contract Documents, nor shall Contractor do any work or furnish any materials not covered by the Contract Documents unless such work is first ordered in writing as provided in the Contract Documents, and if appropriate, an amendment to the Contract sum if agreed upon.
- 4.2 It is hereby further agreed that in consideration of the faithful performance of the work by the Contractor, the Owner shall pay the Contractor the compensation due him/her by reason of said faithful performance of the work, at stated intervals and in the amount certified by the Engineer, in accordance with the provisions of this Contract.

ARTICLE 5 MISCELLANEOUS PROVISIONS.

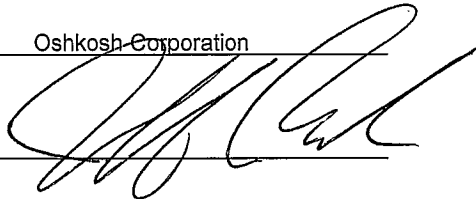
- 5.1 Contractor agrees that the Work shall be done and performed in a good and workmanlike manner, that all materials and labor shall be in strict conformity in every respect with the Contract Documents and shall be subject to inspection and approval of Owner through its duly authorized Engineer, and, in case of any material or labor supplied which shall be rejected by Owner as defective or unusable, then such rejected material shall be removed and replaced with approved material, and the rejected labor shall be done anew to the satisfaction and approval of Owner through its Engineer, at no additional cost or expense to Owner
- 5.2 In no event shall the contracting officers of Owner be personally liable or responsible in any manner to the Contractor, subcontractors, material men, laborers, or to any other person or persons whomsoever for any claim, demand, damages, actions, or causes of action or any kind of character arising out of or by reason of the execution of this Contract or the performance and completion of the work and improvement provided herein.


- 5.3 The section headings contained in this Contract are for convenience in reference and are not intended to define or limit the scope of any provision. Waiver by either party of, or the failure of either party to insist upon, the strict performance of any provision of this Contract shall not constitute a waiver of the right or prevent any such party from requiring the strict performance of any provision in the future.
- 5.4 Except as expressly provided to the contrary herein, any covenant, condition or provision herein contained that is held to be invalid by any court of competent jurisdiction shall be considered deleted from this Contract, but such deletion shall in no way affect any other covenant, condition or provision herein contained so long as such deletion does not materially prejudice Contractor or Owner in their rights and obligations contained in valid covenants, conditions or provisions.
- 5.5 All covenants, conditions and provisions in this Contract shall extend to and bind the successors of the parties hereto, the assigns of Owner, and the permitted assigns of Contractor.
- 5.6 Notices and demands provided for herein shall be sufficient if sent by certified mail, return receipt requested, postage prepaid, or by nationally recognized overnight courier service providing proof of delivery, to the addresses set forth above or to such other addresses as the parties may from time to time designate in writing.
- 5.7 The Contract Documents embody the entire agreement between the parties concerning the subject matter and supersedes all prior conversations, proposals, negotiations, understandings and agreements, whether written or oral.

IN WITNESS WHEREOF, the Party of the First Part and the Party of the Second Part, respectively, have caused this Agreement to be duly executed in day and year first herein written in five (6) copies, all of which to all intents and purposed shall be considered as the original.

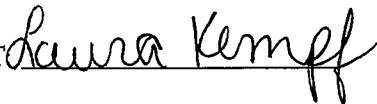
CONTRACTOR, Party of the Second Part

OWNER, Party of the First Part

Oshkosh Corporation
 By: 
Jeff Resch - Vice President
 (Office or Position of Signer)


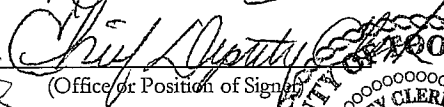
By: 
Commissioner
 (Office or Position of Signer)

(SEAL)

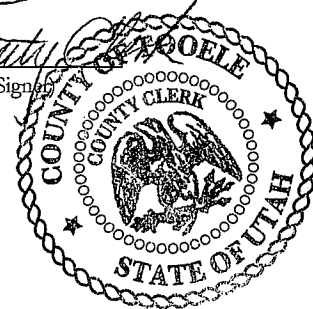
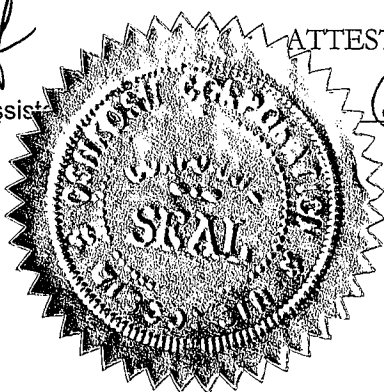
ATTEST: 

Laura Kempf - Executive Administrative Assistant
 (Office or Position of Signer)

(SEAL)

ATTEST: 


(Office or Position of Signer)



PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, That Oshkosh Corporation, as Principal, hereinafter called Contractor, and Fidelity and Deposit Company of Maryland as Surety, licensed to do business as such in the State of Utah, hereby bind themselves and their respective heirs, executors, administrators, successors, and assigns, unto the Tooele County, Wendover, Utah, as Obligee, hereinafter called Owner, in the penal sum of **five hundred forty thousand, three hundred thirty eight** Dollars (**\$ 540,338.00**) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

WHEREAS,

Contractor has by written agreement, entered into a contract with the Tooele County for Schedule I – Acquire New Class 4 ARFF Vehicle, Auxiliary Equipment, and Two Structural Turnout Suits, which contract, including any present or future amendment thereto, is incorporated herein by reference and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Contractor shall promptly and faithfully perform said Contract including all duly authorized changes thereto, according to all the terms thereof, including those under which Contractor agrees to pay legally required wage rates including the prevailing hourly rate of wages in the locality, as determined by the Department of Labor and Industrial Relations or by final judicial determination, for each craft or type of workman required to execute the contract, and, further, shall defend, indemnify and hold the Owner harmless from all damages, loss and expense occasioned by any failure whatsoever of said Contractor and Surety to fully comply with and carry out each and every requirement of the contract, then this obligation shall be void; otherwise it shall remain in full force and effect.

In the event that Contractor shall be and is declared by the Owner to be in default under the Contract, the Owner having performed its obligations thereunder, the Surety may promptly remedy the default, or shall promptly

- 1) Complete the contract in accordance with its terms and conditions, or
- 2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and the Owner, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable here under, the penal sum of the bond. The term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by the Owner to Contractor under the Contract and any amendments thereto, disbursed at the rate provided in the original contract, less the amount properly paid by the Owner to the Contractor. If the completion contract provides for more rapid payment than the Contract, then Surety shall advance such sums as are needed to make payment as provided in the completion contract and shall recover it from the Owner when payment from the Owner is due.

No suit shall be commenced or pursued hereunder other than in a state court of competent jurisdiction in Tooele County, Utah, or in the United States District Court for the District of Utah.

WAIVER. The said surety, for value received, hereby expressly agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder, shall in any wise affect the obligations of this bond; and it does hereby waive notice of any such change, extension of time, or alteration or addition to the terms of the contract or the work to be performed thereunder.

IN WITNESS WHEREOF, the above parties have executed this instrument the 14th day of September, 2012.

SIGNATURE OF PRINCIPAL (as applicable)

A. Individual, partnership or joint venture

(Signature of sole proprietor or general partner)

B. Corporation

Oshkosh Corporation

Name of Corporate Principal

Attest: Aaura Kempf
Secretary (affix seal)

By [Signature]

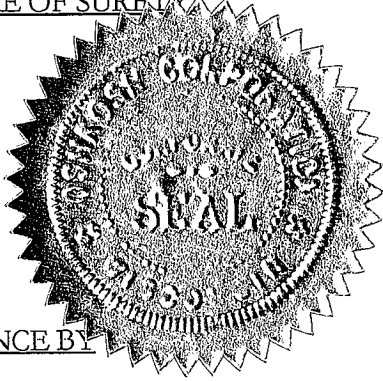
SIGNATURE OF SURETY

Name and address of Corporate Surety

Fidelity and Deposit Company of Maryland

10 S. Riverside Plaza, 5th Floor
Chicago, IL 60606

By Lucy A. Hantzsch (seal)
Attorney in Fact (attach power of attorney)
Lucy A. Hantzsch



ACCEPTANCE BY

The foregoing bond is approved.

Date _____ By _____

The foregoing bond is in due form according to law and is approved.

Date _____ By _____

PAYMENT BOND Bond No. 09092201

KNOW ALL MEN BY THESE PRESENTS: That Oshkosh Corporation, as Principal, hereinafter called Contractor, and Fidelity and Deposit Company of Maryland as Surety, licensed to do business as such in the State of Utah, hereby bind themselves and their respective heirs, executors, administrators, successors, and assigns, unto the Tooele County, Wendover, Utah, as Oblige, and hereinafter called Owner, in the penal sum of five hundred forty thousand, three hundred thirty eight Dollars (\$ 540,338.00) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Contractor has by written agreement, entered into a contract with the Tooele County for Schedule I – Acquire New Class 4 ARFF Vehicle, Auxiliary Equipment, and Two Structural Turnout Suits, which contract, including any present or future amendment thereto, is incorporated herein by reference and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if in connection with the Contract including all duly authorized modifications thereto, prompt payment shall be made to all laborers, subcontractors, teamsters, truck drivers, owners or other suppliers of equipment employed on the job, and other claimants, for all labor performed in such work whether done for the prime contractor, a subcontractor, the Surety, a completion contractor or otherwise (at the full wage rates required by any law of the United States or of the State of Utah, where applicable), for services furnished and consumed, for repairs on machinery, for equipment, tools, materials, lubricants, oil, gasoline, water, gas, power, light, heat, oil, telephone service, grain, hay, feed, coal, coke, groceries and foodstuffs, either consumed, rented, used ore reasonably required for use in connection with the construction of the work or in the performance of the Contract and all insurance premiums, both for compensation and for all other kinds of insurance on the work, for sales taxes and for royalties in connection with, or incidental to, the completion of the Contract, in all instances whether the claim be directly against the Contractor, against the Surety or its completion contractor, through a subcontractor or otherwise, and, further, if the Contractor shall defend, indemnify and hold the Tooele County harmless from all such claims, demands or suits by any such person or entity, then this obligation shall be void; otherwise it shall remain in full force and effect.

Any conditions legally required to be included in a payment bond on this contract, including but not limited to those set out in the applicable Utah state section of the Owner Charter, are included herein by reference.

The Surety agrees that, in the event that the Contractor fails to make payment of the obligations covered by this bond, it will do so and, further, that within forty-five (45) days of receiving, at the address given below, a claim here under stating the amount claimed and the basis for the claim in reasonable detail, it (a) will send an answer to the claimant, with a copy to the Owner, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed and (b) will pay any amounts that are undisputed. The amount of this bond shall be reduced by and to the extent of any payment of payments made in good faith here under.

While this bond is in force, it may be sued on at the instance of any party to whom any such payment is due, in the name of the Owner, to the use of such party. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

No suit shall be commenced or pursued hereunder other than in a state court of competent jurisdiction in Tooele County, Utah, or in the United States District Court for the District of Utah.

WAIVER. The said Surety, for value received, hereby expressly agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder, shall in any wise affect the obligations of this bond, and it does hereby waive notice of any such change, extension of time, or alteration or addition to the terms of the contract or the work to be performed thereunder.

IN WITNESS WHEREOF, the above parties have executed this instrument the 14th day of September, 2012.

SIGNATURE OF PRINCIPAL (as applicable)

A. Individual, partnership or joint venture

(Signature of sole proprietor or general partner)

B. Corporation

Oshkosh Corporation

Name of Corporate Principal

Attest:

Laura Kempf
Secretary (affix seal)

By

[Signature]

Name and address of Corporate Surety

SIGNATURE OF SURETY

Name and address of Corporate Surety

Fidelity and Deposit Company of Maryland

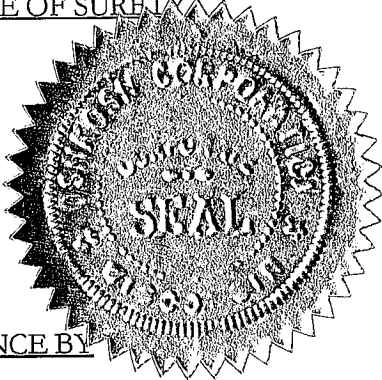
10 S. Riverside Plaza, 5th Floor

Chicago, IL 60606

By

Lucy A. Hantzsch (seal)
Attorney in Fact (attach power of attorney)

Lucy A. Hantzsch



ACCEPTANCE BY

The foregoing bond is approved.

Date _____ By _____

The foregoing bond is in due form according to law and is approved.

Date _____ By _____

Power of Attorney
FIDELITY AND DEPOSIT COMPANY OF MARYLAND

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by THEODORE G. MARTINEZ, Vice President, and GREGORY E. MURRAY, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint **Daniel J. SAPIRO, Daniel J. KWIECINSKI, Wendy S. MILLER, Kathleen A. CRARY, Tracy K. MATTHEWS, Cathy HUTSON, Lisa M. SLAKES and Lucy A. HANTZSCH**, all of Milwaukee, Wisconsin, EACH its true and lawful agent and Attorney-in-Fact to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: ~~any and all bonds and undertakings~~, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of Daniel J. SAPIRO, Daniel J. KWIECINSKI, Wendy S. MILLER, Kathleen A. CRARY, Tracy K. MATTHEWS, Cathy HUTSON, Lisa M. SLAKES, dated August 7, 2007.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 7th day of October, A.D. 2008.

ATTEST:

FIDELITY AND DEPOSIT COMPANY OF MARYLAND



Gregory E. Murray

Theodore G. Martinez

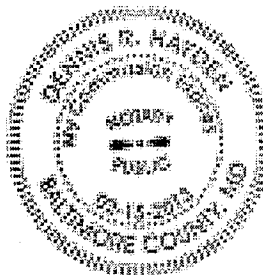
By:

Gregory E. Murray Assistant Secretary *Theodore G. Martinez*

State of Maryland }
Baltimore County } ss:

On this 7th day of October, A.D. 2008, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came THEODORE G. MARTINEZ, Vice President, and GREGORY E. MURRAY, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



Dennis R. Hayden

Dennis R. Hayden *Notary Public*
My Commission Expires: February 15, 2013

EXTRACT FROM BY-LAWS OF FIDELITY AND DEPOSIT COMPANY OF MARYLAND

"Article VI, Section 2. The Chairman of the Board, or the President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgements, decrees, mortgages and instruments in the nature of mortgages,...and to affix the seal of the Company thereto."

CERTIFICATE

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2, of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company,

this 14th day of September, 2012.

Gerald F. Haley
Assistant Secretary