

Duluth Airport Authority  
Resolution to award Rachel Contracting the contract for the Demolition of  
Hangar 101 project at the Duluth International Airport, in the amount of  
\$388,236.00 and approve contract between the Duluth Airport Authority  
and Rachel Contracting.

**Terms:**

- Estimated start date of May 18, 2022
- 42 Calendar Days

**Agreement Overview:**

The contract is for the demolition of Hangar 101 project in the amount of \$388,236.00 from bids received on May 16, 2022. Attached is a copy of the contract. This resolution includes the award of the contract. Execution of the contract will be contingent on verification and compliance of the performance bond, payment bond, and insurance certificate with contract requirements.

**Background:**

Bids will be received using [BidExpress](#) with assistance from the City of Duluth at 2:00pm on May 16, 2022 for the above referenced project. Five contractors submitted bids. The low bid was lower than the engineer's estimate.

Rachel Contracting	\$388,236.00
Veit	\$455,001.00
Alliant Steel Construction Inc.	\$489,000.00
Wren Works	\$555,690.69
TPEC	\$730,000.00
Engineer's Estimate	\$650,000.00

The project is anticipated to be funded at 90 percent by the Federal Aviation Administration (FAA) Bipartisan Infrastructure Law funding.

**STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND CONTRACTOR  
ON THE BASIS OF A STIPULATED PRICE**

**THIS AGREEMENT** is by and between the Duluth Airport Authority  
(Owner) and Rachel Contracting (Contractor).

Owner and Contractor hereby agree as follows:

**ARTICLE 1 – WORK**

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: Hangar 101 Demolition and Development – Phase 1.

**ARTICLE 2 – THE PROJECT**

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Demolition of Hangar 101.

**ARTICLE 3 – ENGINEER**

3.01 The Project has been designed by Short Elliott Hendrickson Inc. (SEH®).

3.02 The Owner has retained SEH (Engineer) to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

**ARTICLE 4 – CONTRACT TIMES**

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Dates*

A. The work shall be substantially complete by July 13, 2022. The contractor shall be given 14 calendar days for Phase 1A, 14 calendar days for Phase 1B, and 14 calendar days for Phase 1C. The work shall be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before August 30, 2022. It is expected the contractor start work as soon as possible following the Notice to Proceed, which is anticipated to be issued May 17, 2022.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner \$1,000.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted

pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$200.00 for each day that expires after such time until the Work is completed and ready for final payment.

3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

#### 4.04 *Special Damages*

- A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.
- C. The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.

### **ARTICLE 5 – CONTRACT PRICE**

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

A. Total of Lump Sum Amount: \$ 388,236.00

### **ARTICLE 6 – PAYMENT PROCEDURES**

#### 6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

#### 6.02 *Progress Payments; Retainage*

- A. Subject to the provisions of SC-15.01.C, Owner shall make monthly progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications of Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract:
  1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract:
    - a. 95 percent of Work completed (with the balance being retainage).
    - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

6.04 *Interest*

All amounts not paid when due shall bear interest at the rate of 4 percent per annum.

**ARTICLE 7 – CONTRACT DOCUMENTS**

7.01 *Contents*

- A. The Contract Documents consist of the following:
1. Addenda (numbers 00 00 1\_\_ to 00 00 1\_\_, inclusive).
  2. This Agreement (pages 00 52 00-1 to 00 52 00-6, inclusive).
  3. Performance Bond (Document 00 61 13).
  4. Payment Bond (Document 00 61 14).
  5. General Conditions (pages 00 72 00-1 to 00 72 00-66, inclusive).
  6. Supplementary Conditions (pages 00 73 00-1 to 00 73 00-9, inclusive).
  7. Specifications as listed in the table of contents of the Project Manual.
  9. The Drawings listed in the index located on Drawing Sheet G0.00.
  10. Exhibits to this Agreement (enumerated as follows).
    - a. Contractor's Bid (Document 00 41 00).
    - b. Documentation submitted by Contractor prior to Notice of Award (pages \_\_\_ to \_\_\_, inclusive).
    - c. Certificate of Insurance.
  11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    - a. Notice to Proceed.
    - b. Field Order(s).
    - c. Work Change Directive(s).
    - d. Change Order(s).
- B. The documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

**ARTICLE 8 – REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS**

8.01 *Contractor's Representations*

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
1. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.

2. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
4. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
5. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
6. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
7. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
8. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
9. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
10. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

#### 8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
  1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
  4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

**ARTICLE 9 – MISCELLANEOUS**

9.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

9.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on \_\_\_\_\_, \_\_\_\_\_ (which is the Effective Date of the Contract).

OWNER:

Duluth Airport Authority

By: \_\_\_\_\_

Title: \_\_\_\_\_

[CORPORATE SEAL]

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

Address for Giving Notices:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Owner-Contractor Agreement).

Designated Representative:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

CONTRACTOR:

**Error! Reference source not found.**

By: \_\_\_\_\_

Title: \_\_\_\_\_

[CORPORATE SEAL]

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

Address for Giving Notices:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

License No. \_\_\_\_\_  
(Where Applicable)

Agent for service of process: \_\_\_\_\_

(If Contractor is a corporation or a partnership, attach evidence of authority to sign.)

Designated Representative:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

**END OF DOCUMENT**