

PARKING LOT MANAGEMENT AGREEMENT

BETWEEN

CITY OF FRESNO, CALIFORNIA
(A Municipal corporation)

and

SP PLUS CORPORATION
A Delaware Corporation

PARKING LOT MANAGEMENT AGREEMENT
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This PARKING MANAGEMENT SERVICES AGREEMENT ("Agreement") is made and entered into as of the 26th day of February, 2014, by and between the City of Fresno California, a municipal corporation hereinafter referred to as the "City", and SP Plus Corporation, a Delaware Corporation duly admitted in good standing to do business in California, hereinafter referred to as the "Contractor" without regard to number or gender.

This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23. The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR part 23.

The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR part 23, that it enters and cause those businesses to similarly include the statement in further agreements.

RECITALS:

WHEREAS, City owns and operates the Fresno Yosemite International Airport, a public airport hereinafter referred to as "Airport", located in the City of Fresno, California; and

WHEREAS, City provides automobile parking facilities in the vicinity of the Airlines Passenger Terminal Building at the Airport ("Terminal") for use by the public and employees; and

WHEREAS, City requires special professional services concerning the management of said automobile parking facilities, including but not limited to management, operation, records-keeping, accounting, auditing, revenue control and providing services to users of such automobile parking facilities and the public ("Services"); and

WHEREAS, City issued a Request for Proposals (Proposal No. 9257), as modified by 5 (five) Addenda, the terms of which are incorporated by reference herein) for "Parking Lot Management Services" on September 4, 2013, to solicit written proposals; and

WHEREAS, pursuant to such solicitation, Contractor submitted a written proposal, dated October 15, 2013, which is incorporated herein by this reference to the extent consistent with this Agreement; and

WHEREAS, on the basis of City's evaluation of such proposal, City selected Contractor for the award of this Agreement; and

WHEREAS, on January 30, 2014, the City Council awarded Contractor the Agreement for "Parking Lot Management Services"; and

WHEREAS, in compliance with the California Public Utilities Code, Section 21690.9, the Director of Aviation ("Director") and the City Council of the City have duly considered the following factors in determining the necessity of an exclusive or limited agreement in connection with the management of City's automobile parking facilities at the Airport: (1) Public safety; and (2) Public convenience; and (3) Quality of service; and (4) The need to conserve Airport space; and (5) The need to avoid duplication of services; and (6) The impact on the environment or

facilities of the Airport as an essential commercial and tourist center; and (7) The need to avoid destructive competition which may impair the quality of airport services to the public, lead to uncertainty, disruption or instability in the rendering of such services, or detract from the State's attractiveness as a center of tourism and commerce; and

WHEREAS, Contractor desires to enter into this Agreement to operate and manage said automobile parking facilities upon the terms and conditions herein;

NOW, THEREFORE, for and in consideration of the foregoing, the mutual covenants and promises hereinafter set forth and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties intending to be legally bound, hereby agree as follows:

ARTICLE I: DEFINITIONS

- A. Access Control. Means managing the access in and out of a parking facility, parker must present a valid parking permit.
- B. Access Control System (ACS). Means a system of hardware and software that controls access to facilities with gates.
- C. Audit. Means the process of reconciling financial transactions with operating transactions for a day or other defined period. This is particularly sensitive in revenue control operation, where a certain amount of theft is possible. Proper audit operations include ticket, spot, and shopper audits to ensure revenue security.
- D. Credit Card Processing. Means the ability to take, validate, and authorize credit cards for payment.
- E. Facility. Means a garage, deck, ramp or parking lot located at the Airport.
- F. Gate. Means the hardware used to control access to a Facility.
- G. Electric Vehicle Charging Station (EVCS). Means a designated area which contains an external charger for electric vehicles. Each station contains a plug that becomes attached to the vehicle providing it with a current of electrical energy to charge the battery.
- H. License Plate Inventory. Means a process that uses license plate recognition or the manual collection of license plate information via handheld devices to count and keep track of vehicle license plates. It can be used in both controlled access and open facility environments to keep track of vehicles accessing a facility.
- I. Parking Access and Revenue Control (PARCS) Equipment. Means access and revenue control systems used for operating, controlling and collecting revenues from parking lot users.
- J. Pay-on-exit. Means a type of system configuration where the customer pays when exiting the facility. Payment may be made to a cashier or by use debit/credit cards upon exit.

- K. Permit. Means an item that allows access to a facility or to part in a certain parking lot and references access control systems, such as a decal, hangtag or key card.
- L. Revenue Control. Means a system that involves transient and non-transient parker management and includes payment at the time of parking.
- M. Revenue Control System (RCS). Means a system for managing and auditing the payment of transient and non-transient parkers in a parking lot.
- N. Transient. Means a parker who pays for parking on a short-term basis, typically daily or less. Transient customers typically pay for the amount of time used versus buying a set period of time to park (i.e. monthly).
- O. Validation. Means a discount provided to parking customers. The discount amount is usually charged to the business that gave the parker the validation.

ARTICLE II: FACILITIES TO BE MANAGED AND OPERATED

2.01 The automobile parking facilities to be managed and operated by Contractor consist of the following, including five (5) entry lanes, each with a ticket dispenser, and one (1) Toll Plaza with four (4) exit booths, which hereinafter shall be referred to collectively as the "Airport Parking Facilities" or as the "Parking Facilities":

A. Public Parking Lot.

The public parking lot is located generally south of the Terminal, as shown on Exhibit "A", attached hereto and incorporated by reference herein. At the time of execution of this Agreement, said lot has parking capacity for approximately two hundred fifty two (252) vehicles in the Short Term parking area and approximately one thousand six hundred eighty one (1,681) vehicles in the Long Term parking area.

B. Employee Parking Lot.

The employee parking lot is located generally south of the Terminal, as shown on Exhibit "A". At the time of execution of this Agreement, this lot has capacity for approximately one hundred ninety (190) vehicles.

C. Handicapped Parking.

There are forty-three (43) handicapped parking spots shown on Exhibit "A". The spots are located in the short-term parking lot and employee parking lot.

D. Future Parking Facilities.

City shall have the right, at any time during the term of this Agreement, including any extensions thereto, to improve, expand, replace, or modify any or all of the Airport Parking Facilities, and/or any equipment or appurtenances thereto. City reserves the right to construct additional parking facilities to serve the Terminal. Upon thirty (30) days written notification by the Director of Aviation ("Director") to Contractor, any such modified, expanded, or additional parking facilities shall be

included within the Airport Parking Facilities and shall be subject to this Agreement.

E. Taxicab Queuing Lanes and other related airport landside services.

City may require Contractor to manage the taxicab queues and other related landside services at the Airport during the term of this Agreement, subject to negotiation of a Supplement to this Agreement detailing the terms and conditions of such arrangement.

ARTICLE III: RESPONSIBILITIES OF CITY

3.01 Responsibilities of City.

In addition to providing the permanent improvements associated with the Airport Parking Facilities as set forth in Article I herein, City shall be responsible, at its own cost and expense, for the following:

A. Maintenance of the Terminal. City shall maintain the Terminal, including the buildings, roadways, sidewalks, landscaping and other improvements associated therewith.

B. Maintenance of and Title to Existing PARCS.

1. City shall provide and maintain all existing City-owned PARCS equipment, as described on Exhibit E, in full operating condition, except that Contractor shall have the responsibility to perform routine service and operations relating thereto including, but not limited to, replacing printing ribbons, clearing jammed machines, loading tickets, and similar tasks as a part of Contractor's normal operations. In addition, Contractor is responsible to inspect PARCS equipment and systems and notify City of any repair or maintenance needed in a timely manner. City shall provide trained personnel and replacement parts and materials to carry out a preventive maintenance program.

2. All PARCS equipment and fixtures provided by the City are City property and shall remain the property of the City.

C. Maintenance of Airport Parking Facilities. City shall be responsible for maintaining the Airport Parking Facilities in good order and repair, based on its own determination of such need. Such maintenance responsibility shall include repair of all equipment and fixtures, paving, curbs, buildings, islands and landscaping, landscaping irrigation systems, fencing, lighting, and any other improvement made by the City. The City shall be responsible for periodic sweeping of the parking areas, repair and sealing of paved surfaces, pavement markings, line striping and repainting of buildings and fixtures, as necessary.

3.02 Office Space.

A. City shall provide Contractor, without charge, during the term of this Agreement, including any extensions, office space for Contractor's use in performing this Agreement. At the time of execution of this Agreement, said office is located at

the parking exit plaza, as shown in Exhibit "A". Unless otherwise agreed by City, Contractor shall not occupy or use any other space(s) at the Airport.

B. City shall keep said office space in reasonable repair.

3.03 Utilities.

City has provided electrical service lines in the public and employee parking facilities. Contractor shall be provided with reasonable access to and reasonable use of electrical service outlets without charge.

3.04 Trash and Refuse.

City shall provide and service, without charge, a covered receptacle for Contractor's use in the collection and storage of refuse from the Airport Parking Facilities.

3.05 Parking Rates.

City retains the sole and exclusive right to establish and/or revise any and all fees, rates and charges applicable to the use of the Airport Parking Facilities subject to this Agreement. Nothing in this Agreement shall limit the right of City to offer reduced fee parking or parking without charge, at its sole discretion, as it determines to be in the best interest of the City or the public. Contractor has no authority under this agreement to waive, cancel, discount, increase or in any other manner modify any rate(s) established by City except as specifically approved by City in writing. Contractor shall be responsible for, and shall promptly repay, any amounts due to City as a result of Contractor's failure to adhere to this requirement.

3.06 Operating Expenses.

The Airport shall reimburse the Contractor for approved operating expenses according to the terms and limitations set forth in this Agreement.

ARTICLE IV: RESPONSIBILITIES OF CONTRACTOR

4.01 General Operation Requirements.

- A. Contractor shall, as an independent contractor, manage and operate the Airport Parking Facilities, described herein, in accordance with requirements and standards as hereinafter set forth.
- B. Contractor shall propose to Director for approval to incorporate into the Comprehensive Management Operations Plan and Manual, described in Section 4.06, the establishment of a culture of outstanding customer service based on a set of customer service standards to be maintained as a minimum level of service to the public. These standards shall address all aspects of parking customers' use of the Parking Facilities, including the proper operation of PARCS, EVCS and other equipment, lighting and other related safety items, facilities cleanliness, mitigation of conditions causing delays in entering and exiting the facilities and obstructions to walkways, and employee training on appearance and appropriate and desired interaction with customers and

addressing and resolving customer complaints, special requests and other customer matters.

- C. Except as otherwise stated herein, Contractor shall service and operate all Parking Facilities equipment. However, Contractor shall not have access to parking lot transaction counting devices associated with exit gates, nor shall Contractor allow any third party(ies) to have such access, except in the presence of the Director or other authorized representative of City. Further, Contractor shall provide its authorized representative(s) to witness any access by or on behalf of City to such transaction counting devices.
- D. Contractor shall notify City when maintenance is needed on any City-owned equipment and shall provide City with access to such devices.
- E. Contractor shall give the Director immediate oral notice of any malfunction or breakdown of any Parking Facilities equipment supplying audit data or affecting Parking Facilities ingress or egress. Contractor shall give the Director immediate oral notice of the date and time such malfunction or breakdown is corrected or repaired. Contractor shall transmit written confirmation of all such information to the Director, within twenty-four (24) hours following such correction or repair.
- F. Contractor shall be responsible for cleaning and janitorial functions of the Parking Facilities and its assigned office space and shall promptly repair any damage caused by any act, omission or negligence of Contractor or its employees, using materials and workmanship of original quality. Contractor shall not relocate, or make any additions, alterations, or modifications; nor shall Contractor construct any appurtenances thereto, or situate any other temporary or permanent structures at the Airport without the express prior written approval of Director.
- G. Contractor shall not use the receptacle for the deposit of trash, refuse or any other material not associated with the management of the Airport Parking Facilities. Contractor shall not pile boxes, cartons or other similar items on the Airport, except at an appropriate storage area designated specifically for Contractor by City.
- H. Contractor shall be responsible for the reasonable prevention of unauthorized access to and departures from the Parking Facilities.

4.02 Operation and Use of Airport Parking Facilities.

Contractor shall manage and operate City's Airport Parking Facilities solely as public and employee parking facilities for the transient parking of automobiles for the use and convenience of air travelers, patrons, guests, members of the public, employees, and other users of the Airport. Contractor shall not use the Airport Parking Facilities subject to this Agreement or permit such use by any other party(ies), in whole or in any part for any other purpose(s), without having obtained the prior express written approval of the Director for such use(s).

4.03 Commercial Activity Prohibited.

Except for the management and operation of the Airport Parking Facilities, neither Contractor, nor any of its officers, employees or agents shall engage in any business

and/or other commercial activity on or from the Airport. However, this provision shall not be construed to prevent the Contractor from providing additional services under this Agreement, if requested by the Director.

4.04 Hours of Operation.

Contractor shall keep the Airport Parking Facilities open for use by the public and by authorized employees twenty-four (24) hours per day, seven (7) days a week, including all weekends and holidays. At least one parking exit booth shall be continuously staffed and attended by Contractor during the entire term of this Agreement.

4.05 Supervision of Vehicular Movement and Parking.

Contractor shall maintain adequate supervision and control over vehicular entrances, exits and movement lanes so as to maintain at all times the safe, orderly, efficient and timely flow of traffic through the Airport Parking Facilities.

- A. The scope of this section particularly refers to the requirement for Contractor to staff and operate an adequate number of additional exit lanes to accommodate varying volumes of exit traffic, without unreasonable delays. Unreasonable delays are considered to be any delay in excess of five (5) minutes or average delays in excess of two (2) minutes during any hourly period, unless otherwise approved by the City based on factors beyond the Contractor's control.
- B. Contractor shall maintain on file with Director a current written schedule showing the daily hours of operation of each exit lane. Said schedule shall be subject to review and approval by Director. Director may require an expansion or reduction to the schedule as appropriate to accommodate exiting vehicle volumes and patterns. Contractor shall maintain the staffing levels according to the approved schedule or as directed by the Director. Contractor shall monitor activity levels and provide timely recommendations to Director of appropriate changes in the staffing schedule as needed to provide a high level of service to the public or as appropriate to reduce unnecessary labor costs.

4.06 Comprehensive Management Operations Plan and Manual.

Contractor shall, within thirty (30) days of the effective date of this Agreement, prepare and submit to Director for approval a comprehensive manual of standard operating procedures, ("Manual") for meeting Contractor's responsibilities under this Agreement, to include performance targets, goals and measures. Contractor shall maintain such Manual during the term of this Agreement and any extensions thereof pursuant to the following conditions:

- A. The Manual shall include, but not be limited to, an identification of each of Contractor's performance responsibilities as set forth by this Agreement, and an identification of Contractor's other legal obligations, pursuant to applicable provisions of law and relevant to Contractor's performance at the Airport under this Agreement.
- B. The Manual shall further include a comprehensive summary of the means, methods, procedures, and controls which Contractor will employ to satisfy its contractual obligations to City, as set forth in this Agreement, and to satisfy Contractor's other

legal obligations, pursuant to applicable provisions of law and relevant to Contractor's performance at the Airport under this Agreement.

- C. The Manual shall specifically include Safety and Emergency Action Plan for the employees of the Airport Parking Facilities. Such plan shall include all Material Safety Data Sheets (MSDS) for all chemicals used by Contractor.
- D. This Agreement shall take precedence over the Manual where any provision or interpretation of the Manual is in any way inconsistent with the terms of this Agreement.
- E. Contractor shall review the Manual frequently and thoroughly for needed revisions in response to changing conditions or for operational improvements. Contractor shall revise the Manual periodically, as necessary, to reflect current operating procedures as approved by Director. Revisions of the Manual must be approved in writing by Director prior to implementation by Contractor.
- F. Contractor shall incorporate and issue any revisions to the Manual as Director may specify to Contractor from time to time in writing. Should Contractor consider any such revisions to be in conflict with the terms of this Agreement, Contractor shall promptly inform Director in writing of the potential conflict. Contractor agrees that in such event, the instructions of Director shall be implemented for a minimum of ten (10) business days while awaiting a response and resolution from Director unless such action would hazard the health or safety of the public or of Contractor's employees, or result in Contractor's violation of applicable laws or ordinances. In such case Contractor shall include such notification of potential hazard or violation of the law when initially informing Director of the conflict or as soon as it is determined that such potential may exist.
- G. Contractor shall ensure that a current, complete, and correct copy of the Manual is continuously maintained on file with Director.
- H. Copies of the Manual shall be kept constantly available on-site by Contractor for Contractor and City's reference and use, and shall be accessible to Contractor's employees during the term of this Agreement, and any extensions thereof. To the extent that portions of the Manual might compromise revenue control or relate to other sensitive matters, such portions may be withheld from copies provided for general use of employees. The specific material to be withheld from copies provided for general employee use shall be submitted for approval by Director prior to issue of those copies.
- I. Contractor shall conform all issued copies of the Manual, including any revisions, with the exception of the withholding of material (related to revenue control or other sensitive areas) from copies provided for general employee use, as previously described in this section.

4.07 Personnel.

- A. Contractor shall be responsible for hiring, training and supervising an adequate number of supervisory and operating personnel with appropriate skills to ensure full performance of Contractor's management and operation services set forth

herein. Contractor shall schedule employees so as to minimize or avoid the payment of overtime.

B. Managers.

1. Parking Manager

- a. Contractor shall select and appoint, subject to the review and express written approval of Director, a qualified and experienced Parking Manager for the Airport Parking Facilities.

Said Parking Manager shall devote all of his/her time to Contractor's operations and duties under this Agreement and shall maintain his/her sole office at the Airport for the entire term of this Agreement including any extensions.

- b. If during the term of this Agreement and any extensions thereof, for any reason whatsoever the tenure of an incumbent Parking Manager is terminated, Contractor shall promptly select and appoint, subject to the review and express written approval of Director, a replacement Parking Manager.
- c. The Parking Manager shall be vested with full power and authority to represent and act for Contractor in all matters pertaining to the method, manner and conduct of the day-to-day operation of the Parking Facilities.
- d. As a minimum level of service, Contractor's Parking Manager shall be physically present on-site at the Airport Parking Facilities during the conventional weekday office hours as are recognized and practiced by City. The Parking Manager or his designee shall also make on-site inspections of Contractor's operations at the Airport at other hours of the day and other days of the week, and shall be continuously available, on call, to manage and supervise Contractor's operations at the Airport, twenty-four (24) hours a day, three hundred sixty five (365) days a year.

2. Assistant Parking Manager

- a. Contractor shall select and appoint a qualified and experienced Assistant Parking Manager.
- b. The Assistant Parking Manager shall be authorized, during the absence or unavailability of the Parking Manager, to represent and act for Parking Manager with like authority.
- c. During any temporary periods of absence or unavailability of said Parking Lot Manager, the Assistant Parking Manager must be physically present on-site at the Airport Parking Facilities or available on call as is otherwise required of the Parking Manager

by the above subparagraph (1)(d) of paragraph "B" of Section 4.07 of this Agreement.

3. The Parking Manager, and the Assistant Parking Manager while acting in the capacity of the Parking Manager, shall not perform the duties or functions regularly assigned to subordinate parking lot exit booth attendants, clerks or cashiers, except for training purposes and during reasonably unforeseeable contingencies. The Parking Manager and the Assistant Parking Manager shall function to the maximum practical extent in exclusively managerial, supervisory and customer service capacities with respect to Contractor's management and operation of the Airport Parking Facilities.
 4. The Parking Manager shall not be concurrently assigned or employed in any capacity with the management or operation of any other automobile parking facility or enterprise whatsoever during the tenure of such Parking Manager at the Airport.
 5. Contractor shall, at its own cost and expense, purchase cell phones for the Parking Manager and Assistant Parking Manager so the Director and/or the Contractor's employees on duty will be able to contact and speak directly with the Contractor's Parking Manager, or Assistant Parking Manager when appropriate, at any hour of the day and any day of the week, except during the Parking Manager's or Assistant Parking Manager's vacation times.
 6. The Parking Manager and Assistant Parking Manager shall not take concurrent vacation time or other concurrent leaves of absence. In the event that both the Parking Manager and the Assistant Parking Manager are concurrently absent, due to illness or other circumstances, for more than one (1) business day during which bank deposits or cash pick-ups by an armored security service would be made, Contractor shall provide a qualified substitute on-site manager to perform the duties of the Parking Manager. In anticipation of such an event, Contractor may propose in writing to the Director, that a senior non-management employee assigned to this location be designated as a contingent supervisor. Such a proposal shall include specific procedures for temporary access to cash and confidential records that, in the opinion of Director, can be implemented without compromise of immediate or ongoing cash control security. Director may approve or disapprove such proposal at Director's sole discretion.
- C. Contractor shall notify each of its employees in writing, prior to any such employee beginning work at the Airport under this Agreement, as to each of the following conditions, and Contractor shall obtain a signed acknowledgment from each of its employees at the Airport as to the receipt of such notification. Contractor shall retain each such signed acknowledgment, for the duration of this Agreement, at its Airport office and produce same upon City's request for inspection and copying.

1. That Contractor is the employing agency and/or employer of such employees; and
 2. That the City of Fresno is not an employer, nor a co-employer of such employee(s) with regard to this Agreement, and City has retained Contractor's services to perform the terms of this Parking Management Agreement; and
 3. That the effective term or life of this Agreement is limited by the terms and conditions expressed elsewhere herein and that each such employee's employment by Contractor under this Agreement cannot be expected beyond the date on which this Agreement expires or is terminated.
 4. That City has reserved certain rights to initiate inquiries and/or investigations concerning all of Contractor's personnel as specified under Article IV, subsection 4.08(C) of this Agreement.
- D. Contractor shall establish and maintain clear written policies and procedures relative to the following personnel matters that are applicable to all of Contractor's employees at the Airport under this Agreement. Such personnel policies and procedures shall recognize and respect the rights and privileges accorded to Contractor's employees by law, and comply with any and all relevant requirements, rules, regulations, codes, or procedures which are duly promulgated by any competent authority having jurisdiction, and which are made pursuant to or mandated by any law(s) of the United States of America, the State of California, the County of Fresno, or the City of Fresno. Such policies and procedures shall be published and maintained in the comprehensive Management Operations Plan and Manual, which is required under paragraph heading number 4.06 of this Article IV of this Agreement.
1. Recruitment and selection of personnel, including the establishment and implementation of personnel policies that will provide that non-management personnel of the incumbent parking operator as of the date of Contract Award, shall be given first preference in hiring as personnel of the Contractor (if applicable and subject to the provisions otherwise stated herein), as the case may be, subject to reasonable hiring standards, in the event that the incumbent parking operator does not succeed itself. Contractor's personnel policies shall also provide for fair and non-discriminatory selection of all personnel.
 2. Training of personnel.
 3. Rules of employee conduct.
 4. Supervisory review, appraisal and evaluation of employee job performance.
 5. Advancement or promotion of employees, according to merit.
 6. Disciplinary action and procedures.
 7. Termination procedures.
 8. Procedures to facilitate the formal expression and equitable resolution of employee grievances.

4.08 Restrictions on Employment

- A. In connection with Contractor's work relative to this Agreement, Contractor shall not knowingly employ or retain in its employ, any employee who has been

convicted in any court of competent jurisdiction of theft, embezzlement, misappropriation or misapplication of funds in abridgement or abrogation of any fiduciary capacity or relationship. This subparagraph 4.08 of Article IV of this Agreement shall not be interpreted for any purpose related to this Agreement to convey any obligation to Contractor, or any intent on the part of City, for Contractor to act in any manner which is inconsistent with or in violation of Fair Labor and Employment Practices or, Equal Employment Opportunities, as mandated by law.

- B. Not less frequently than annually, or upon request by the Director, Contractor shall, in writing, supply the Director with a staffing plan that includes an organizational chart with the full name, job classification, current wages, benefits or other terms and conditions of employment, and specific assignment of each of its personnel used in performance of this Agreement at Airport.

Contractor shall, in writing, obtain the approval of the Director, as to any proposed change in the number of such personnel, or their wages, benefits or other terms and conditions of employment not less than thirty (30) calendar days in advance of such change. In the event of personnel changes necessitated by emergency, Contractor shall give the Director immediate oral notice thereof, and shall transmit written confirmation of such information to the Director within twenty-four (24) hours thereafter. If the Director determines, in his sole discretion, that any changes in the number of employees, wages, benefits or other terms and conditions of employment are detrimental to the parking lot management at the Airport, the Director may require Contractor to immediately revoke or rescind any such changes.

- C. City reserves the right to the extent permitted by law to initiate inquiries and/or investigations, concerning any of Contractor's employees or personnel, at any time, with or without any further notice to Contractor, or to Contractor's employees or personnel, as to the sources of all personal income, and/or as to the circumstances relative to the acquisition of any personal financial assets, and/or as the circumstances relative to the undertaking or discharge of any personal financial obligation, debt, or other liability, as any of same may relate to Contractor's fiduciary capacity under this Agreement.
- D. City reserves the right, to the extent permitted by law, to initiate inquiries and/or investigations at any time concerning any of Contractor's employees who work, or have worked, at the Airport parking facilities as to their personal professional and business reputation for truthfulness, honesty, integrity, veracity, and trustworthy conduct as may relate to the personal qualifications and fitness of character of individuals to participate in Contractor's fiduciary capacity under this Agreement. Such investigation may take place with or without further notice to Contractor, or to Contractor's employees or personnel.
- E. City reserves the right to request any of Contractor's employees or personnel, at any time, to execute appropriate waivers and authorizations in favor of City of any individual rights to privacy and/or financial privacy to the extent such waiver is permitted by law, as may be necessary to facilitate the release of information to City which is relevant to the scope of any investigation or inquiry, undertaken by City, as is contemplated by paragraphs "C" and "D" immediately preceding.

City acknowledges the right of Contractor's employees to decline any such request by City to execute such a waiver or authorization, and City shall not request or initiate any action under this Agreement, or otherwise, against Contractor, or any of Contractor's employees or personnel, based in whole or part upon any such declination.

4.09 Supervision of Employees.

Contractor shall maintain close supervision over all of its personnel to ensure their honesty and integrity, the efficient performance of their duties, and their courteous treatment of and service to the public.

4.10 Uniforms.

All of Contractor's personnel, while on duty at the Airport, shall be neatly and cleanly attired in a distinctive uniform. Such uniforms shall display Contractor's name in a readily readable form and a readily readable nametag and/or identification badge, which uniquely identifies the wearer to the City and users of the Airport alike. Name badges visible to the general public may include the first name and initial of the last name for the purposes of personal safety.

4.11 Service to the Public.

Contractor's service to the public shall be prompt and courteous under all circumstances, and shall include, but not necessarily be limited to, such routine occurrences as assistance to customers who can't find their vehicle, lock-out assistance, and jump starts for vehicles with dead batteries.

4.12 Complaints.

Contractor shall be responsible for handling and responding to all complaints from the public and authorized employee users of the Airport Parking Facilities. Contractor shall forward all written complaints to Director by the next business day following receipt. Contractor shall respond to all complaints within seventy-two (72) hours, and a report of the response shall be forwarded to the Director. A written response shall be provided to all written complaints, with a copy forwarded to Director.

4.13 Collection of Fees.

Contractor shall make every reasonable effort and take every reasonable precaution to ensure that all sums due and owing to City from patrons of the Airport Parking Facilities, which are managed and operated by Contractor for and on behalf of City, are properly assessed, charged, collected and accounted for according to the fees and charges established or approved by City subject only to the exemptions and exceptions determined by Director.

4.14 Modes of Payment.

The acceptable mediums or modes for payment of such fees and charges in City's order of preference are: (1) in cash with United States currency and coin; (2) by a recognized

and acceptable major debit or credit card as provided for herein; (3) by personalized check or traveler's check as provided for herein. Director may authorize other forms of payments from time to time throughout the term of this Agreement and any extensions.

- A. Credit and Debit Card Acceptance. Contractor may only accept major debit and credit cards as approved by Director under this Agreement, and only for the amount that is due in individual transactions for payment of public Airport Parking Facilities fees. Contractor is to accept debit and credit card transactions only in full compliance with all recommended procedures published by the bank or lender issuing the particular debit or credit card involved. Under no circumstances is Contractor permitted to return cash from City monies to any person in any transaction involving the tendering of a debit or credit card without the specific written approval of Director.

Debit and Credit Card Express Lane. Contractor agrees to provide, service, maintain and operate, at least one, unattended exit lane of the Airport's public parking lots. All the equipment, software, signage and supplies necessary to enable the parking charges of public parking lot patrons using that lane to be calculated automatically and charged to the patrons' debit or credit cards, with receipts issued.

- B. Authorized Credit Cards. Contractor is authorized to accept the use of "Master Card", "American Express", "Discover" and/or "Visa" or other major credit cards for the limited and sole purpose of the payment of public Airport parking fees, in lieu of cash.

C. Acceptance of Checks.

1. Contractor may only accept personal checks or traveler's checks drawn against domestic United States financial institutions, made payable to the "City of Fresno", and only for the amount which is due in individual transactions for payment of public and employee Airport Parking Fees at the Airport. Under no circumstances is Contractor permitted to return cash from City monies to any person in any transaction involving the tendering of a check without the specific written approval of Director.
2. Contractor may accept checks in amounts up to and including One Hundred Dollars (\$100.00) at the Airports Parking Facilities cashier/attendants exit control booths, provided that the check is personalized by printing with the name of maker or is a traveler's check, and the maker also presents a valid state driver's license or state issued identification card in the maker's name and bearing the maker's photograph. Contractor shall ensure that at a minimum the following information is accurately and legibly handwritten or printed upon the check at the time of its acceptance: (1) the maker's full name as printed upon the maker's state driver's license or state issued photograph identification card; and (2) maker's state driver's license or state identification card number, including the standard two-letter postal abbreviation for the state issuing same; and (3) maker's complete current residence address and telephone number; and (4) the vehicle license plate number and state issuing same, or the vehicle identification number

of the exiting vehicle or employee's vehicle for which parking fees are being paid.

3. Contractor may accept traveler's checks only at a face amount which is equal to or less than the full amount of public parking fees and charges which are due provided that the balance owing, if any, of such fees is concurrently tendered in cash or by another acceptable mode of payment as is provided for herein. Contractor shall not accept any traveler's check at any face amount which is greater than the total amount of public parking fees and charges which are due, as the refunding of any cash from public funds in such a transaction is an accommodation which is expressly prohibited by law.
4. Contractor shall be liable for collecting all non-sufficient funds checks and reporting such non-sufficient funds transactions to the City of Fresno. Contractor shall also be responsible for collecting all fees associated with such transactions on a monthly basis.

- D. Contractor's Liability for Loss(es) in Acceptance of Alternative Payment Modes. Contractor shall be fully and strictly liable to City for any loss(es) of revenue to City as a result of Contractor's processing or acceptance of debit or credit cards or checks in any manner which is inconsistent with the requirements of this Agreement, any provision of applicable law, or procedures as may be specified to Contractor from time to time in writing by Director or City's Director of the Department of Finance, to the extent that such procedures are not inconsistent with any provision of applicable law. City may deduct the full amount of any such loss(es) of revenue upon notice to Contractor from the monthly Base Management Fee or other fees/payments due to Contractor pursuant to this Agreement.
- E. Prohibited Receipts by Contractor. Contractor, and any of Contractor's employees, shall not charge, collect, or receive any fee(s), rate(s), charge(s), consideration, or anything of value whatsoever related to the parking of vehicles at the Airport, other than as may be established from time to time by City.
- F. Revenue is Property of City. All fees and other monies collected and/or received by Contractor in its operation of the Airport Parking Facilities covered herein shall become, immediately upon the collection and/or receipt thereof, the property of City held in trust by Contractor for City.
- G. Daily Bank Deposits / Contractor's Liability for Shortages. Contractor shall deposit daily in City's designated bank account all such "Gross Receipts", as defined under section 7.02(D), in full compliance with any applicable provision of law, and/or any other procedures applicable thereto, as may be specified from time to time to Contractor in writing by Director or by City's Director of the Department of Finance. Contractor alone assumes any and all risks of loss of such daily Gross Receipts immediately upon collection on and/or receipt, and until the bank has certified that the receipts are safely deposited in the City's designated bank account. Contractor is strictly accountable and liable to City for any shortage or difference between the total of Gross Receipts, and the corresponding amount of the daily deposit that is credited to City's account by

City's bank. Contractor shall also be liable for any difference between the amount of parking revenue reported by the revenue control system and the amount actually deposited, regardless of reason, except for those amounts attributable to system malfunction and documented by Contractor to the satisfaction of Director. Cashier overages shall be paid by Contractor with the daily deposit of funds for that day's business. Cashier overages shall be deposited as a separate deposit and shall not be deducted against any shortage amounts, except for obvious errors in cash handling between Contractor's employees which result in off-setting overage/shortage amounts so long as such errors are documented to the satisfaction of Director. City, upon notification to Contractor, may deduct the cumulative monthly total of any unpaid shortages from the amount of compensation that is otherwise due and payable by City to Contractor under this Agreement.

H. Transport of Funds. Contractor shall utilize an armored transport service, approved by Director, for the safe transport and deposit of funds.

4.15 Manual Operations Contingency Plan.

Contractor shall prepare and at all times maintain a detailed, written manual operations "Contingency Plan", available for the use of Contractor's Parking Lot Manager and Contractor's other employees. The Contingency Plan shall provide for the continued operation of the public Airport Parking Facilities in the event that any portion of the automated mechanized components of the integrated PARCS shall become inoperable due to a temporary disruption or failure of the system. Such Contingency Plan shall include provisions for complete manual operation of the public Airport Parking Facilities and the summoning of any additional temporary employees as are necessary to sustain manual operation. Such Contingency Plan shall be maintained as a component of Contractor's Manual, as is required under the provisions of section 4.06 of this Agreement.

4.16 Bank Service Charges.

City shall be responsible for usual, customary and reasonable service charges and/or fees, if any, that may be deducted by City's bank for servicing and maintaining City's bank accounts. City shall not be responsible for any such charges that are due to the error or negligence of Contractor.

4.17 Contractor's Internal System of Controls.

Contractor shall establish and maintain an adequate system of internal controls to assure that all City monies are received, accounted for, deposited and/or paid. This section shall not apply to unpaid fees originating from insufficient funds transactions, as provided in this Agreement.

4.18 Reports and Record-Keeping.

Contractor shall prepare, maintain, submit and retain appropriate records as further described in Article V of this Agreement.

4.19 Daily Inspection of Facilities.

Throughout the term of this Agreement, Contractor shall, on a daily basis, conduct a thorough and detailed inspection of Airport Parking Facilities, to determine if any unclean or potentially hazardous or dangerous condition to the public exists thereon. The results of each such inspection shall be recorded in writing upon a report form, which has previously been approved by the Director. Such report form shall be submitted to City during the following City business day, accompanying Contractor's daily operational and accounting report. Additionally, Contractor shall immediately report to Director, or Director's designee, or in the absence of both, to the Department of Airports, Public Safety Division, any inherently hazardous or imminently dangerous condition, noted by Contractor during such inspections, or at any other time. Contractor's daily inspection and report shall specifically address, but not be limited to all of the following conditions: (1) any inoperable or damaged parking lot nighttime illumination or security lighting fixture(s); (2) any excessive accumulation(s) of grease, oil or slippery substance(s) upon pavement surfaces; (3) any significant defect(s) or deterioration of pavement surfaces such as pot holes, cracks, or irregular changes in grade; (4) any potentially hazardous foreign material(s) upon the premises such as glass, nails, vehicle mechanical parts, gasoline, and other flammable fuels; (5) any excessive accumulation(s) of debris or litter; and (6) any broken, damaged, defaced, or vandalized City property such as signs, sign posts, or landscaping.

4.20 Duty to Diligently Observe and Report.

Contractor and Contractor's employees are not required under this Agreement to act in the capacity of private security officers. However, in addition to Contractor's specific duties as defined within this Agreement, Contractor and Contractor's employees have the general obligation and duty under this Agreement to diligently observe within the Airport Parking Facilities, subject to this Agreement, and the areas of the Airport contiguous thereto for any actual or potential hazard which jeopardizes the health, safety or welfare of any person and/or the security of any public or personal property, and to promptly report any such hazard(s) to the Airport Public Safety Division and Director.

4.21 Abandoned Vehicles, Parking Violations, Etc.

Contractor shall notify Director and the Airport Public Safety Division forthwith of any vehicle which appears to have been abandoned, or is parked in violation of any provision of the Fresno Municipal Code, the California Vehicle Code, and/or any other applicable law(s), code(s) or ordinance(s). Contractor shall implement adequate standard operating procedures for Contractor's personnel and shall maintain adequate automobile vehicle inventory records so as to promptly identify and report within twenty-four (24) hours, any vehicle(s) which has been parked in excess of any maximum parking term, that is established by the Director and that is applicable to any portion of the Airport Parking Facilities subject to this Agreement. Contractor shall also report forthwith to Director and the Airport Public Safety Division any vehicle parked upon the Airport Parking Facilities which appears to have been: (1) involved in a recent collision; or (2) recently damaged by fire; or (3) stripped, or partially stripped of its equipment and/or parts; or (4) mechanically disabled or inoperable; or (5) used in the commission of a crime or involved in criminal activity(ies).

4.22 Removal of Abandoned Vehicles, Storage, Lien Sales.

Contractor shall establish, implement and maintain written standard operating policies and procedures within its approved Manual for recording lien(s), removal, storage, disposition and sale of any vehicle(s) which is abandoned upon the Airport Parking Facilities, subject to this Agreement, and for which vehicle parking fees and charges, due to City, remain unpaid. Such standard operating policies and procedures shall be in full compliance with any and all applicable provisions of the Fresno Municipal Code, the California Vehicle Code, the California Civil Code, and any other applicable provision of any law(s), code(s) and/or ordinance(s). Further, such standard operating policies and procedures shall be subject to the express written approval of the Director. Contractor, at its sole expense and cost and consistent with the Manual, shall be responsible for removal, storage, and/or sale of such vehicles. Contractor shall ensure that any monies collected, as a result of Contractor's exercise of such standard policies and procedures, are lawfully applied to satisfy all of City's outstanding parking fees and charges, subject only to the priorities for the disposition of such funds as are mandated by law. Contractor shall not remove any vehicle from the Airport Parking Facilities that are subject to this Agreement, pursuant to the provisions hereunder, without the express specific authorization to do so by Director. Nothing contained herein or elsewhere in this Agreement, shall be interpreted or construed so as to preclude or restrict the exercise of City's lawful authority to remove, store, and place foreclosure upon liens against vehicles.

4.23 Consultation with City.

Upon the request of Director, Contractor shall consult with and advise City concerning the operation of the Parking Facilities and provide reasonable assistance without additional charge.

4.24 Printing of Employee Parking Permits or Identity Cards for Airlines Crew Member Parking Permits, Validated Parking Coupons, etc.

Contractor shall be responsible for procuring monthly employee parking permits or identity cards, airlines crew member parking permits, validated parking coupons, and any other such similar items or documents which are required in the operation of the Airport Parking Facilities. Graphics and artwork to be printed upon such permits, cards, coupons, items and documents shall be submitted by Contractor to Director for written approval prior to printing. Contractor shall maintain adequate records and control of all such permits, cards, coupons, etc. printed, sold and issued. Contractor shall, upon the request of Director or City's Director of Finance, account for all such permits, cards, coupons, etc. printed, sold, and issued.

4.25 Equipment.

- A. Office and Trade Equipment. Contractor must provide at least a minimal amount of ordinary office equipment and ordinary parking lot trade equipment, such as adding machines, forms, coin counting machines, tire marking devices, etc., in order to properly perform Contractor's responsibilities for the operation of the Airport Parking Facilities as described herein and to meet the requirements of this Agreement. All such equipment subject to public view shall be maintained in

a clean and presentable condition at all times, in order to properly represent the City to the public.

- B. Existing PARCS. City has equipped the public Airport Parking Facilities with an integrated system of PARCS equipment and fixtures. All PARCS equipment and fixtures provided by City are City property and shall remain the property of the City throughout the term of this Agreement. Contractor shall have the limited responsibility to replace printing ribbons, clear jammed machines, load tickets and perform such other routine management and operating tasks, as are a part of normal parking lot operations. Contractor shall immediately inform the Director of any required maintenance or malfunction of the revenue control system.
- C. Use of Airport Equipment. Contractor shall ensure that Contractor employees who use City equipment are properly trained in the use and safe operation of that equipment. Title to this equipment shall remain with the City. Contractor use of equipment owned by Contractor or by the City shall be at Contractor's sole risk and Contractor shall protect and indemnify City against all liability for said use.

4.26 Administrative Responsibilities.

Contractor shall be responsible for all management and operations activities and all costs/expenses incurred in pursuit hereof except as otherwise expressly specified herein.

4.27 Telephone.

Contractor shall provide and maintain for Contractor's use adequate business telephone service at the Airport, with a readily identifiable published local telephone directory listing.

4.28 Permits and Licenses.

Contractor shall obtain, pay for and maintain all permits and licenses required for its operation of the Airport Parking Facilities as required herein.

4.29 Rules and Regulations.

Contractor agrees to obey all laws, ordinances, rules regulations, orders and restrictions, applicable to Contractor's activities at the Airport, promulgated and/or enforced by any agency of the Federal, State, County or City governments, which lawfully exercises authority over the Airport or Contractor's business hereunder, and which are now in force or which may hereafter become effective during the term of this Agreement. City has the right to, and shall, adopt and enforce reasonable rules and regulations and ordinances with respect to the use and operation of the Airport and related facilities, including the Parking Facilities, which rules, regulations and ordinances Contractor also agrees to observe and obey. Contractor further agrees to comply with any notice(s), order(s), directive(s), or condition(s) issued by the Director with respect to the use of roadways, driveways, curbs, sidewalks, parking areas, and/or any public areas, which are adjacent to the Airport Parking Facilities. City shall not be liable to Contractor for any damage to, diminution or deprivation of Contractor's rights hereunder on account of the exercise of any authority pursuant to this Section. Contractor shall not be entitled to terminate the

whole or any portion of this Agreement by reason thereof, unless the exercise of such authority shall so interfere with Contractor's operation of the Airport Parking Facilities in the exercise of its rights under this Agreement so as to constitute a termination in whole or in part of this Agreement by operation of law in accordance with the laws of the State of California.

4.30 Conflict of Interest and Non-Solicitation.

- A. Prior to City's execution of this Agreement, Contractor shall complete a City of Fresno conflict of interest disclosure statement in the form as set forth in Exhibit "D". During the term of this Agreement, Contractor shall have the obligation and duty to immediately notify City in writing of any change to the information provided by Contractor in such statement.
- B. Contractor shall comply, and require its subcontractors to comply, with all applicable (i) professional canons and requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code Section 1090 et. seq., the California Political Reform Act (California Government Code Section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 et. seq.). At any time, upon written request of City, Contractor shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, Contractor and the respective subcontractor(s) are in full compliance with all laws and regulations. Contractor shall take, and require its subcontractors to take, reasonable steps to avoid any appearance of a conflict of interest. Upon discovery of any facts giving rise to the appearance of a conflict of interest, Contractor shall immediately notify City of these facts in writing.
- C. In performing the work or services to be provided hereunder, Contractor shall not employ or retain the services of any person while such person either is employed by City or is a member of any City council, commission, board, committee, or similar City body. This requirement may be waived in writing by the City Manager, if no actual or potential conflict is involved.
- D. Contractor represents and warrants that it has not paid or agreed to pay any compensation, contingent or otherwise, direct or indirect, to solicit or procure this Agreement or any rights/benefits hereunder.
- E. Neither Contractor, nor any of Contractor's subcontractors performing any services on this Project, shall bid for, assist anyone in the preparation of a bid for, or perform any services pursuant to, any other contract in connection with this Project unless fully disclosed to and approved by the City Manager, in advance and in writing. Contractor and any of its subcontractors shall have no interest, direct or indirect, in any other contract with a third party in connection with this Project unless such interest is in accordance with all applicable law and fully disclosed to and approved by the City Manager, in advance and in writing. Notwithstanding any approval given by the City Manager under this provision, Contractor shall remain responsible for complying with Section 4.31(b), above.

F. If Contractor should subcontract all or any portion of the work to be performed or services to be provided under this Agreement, Contractor shall include the provisions of this Section 4.31 in each subcontract and require its subcontractors to comply therewith.

G. This Section 4.31 shall survive expiration or termination of this Agreement.

4.31 Airport Concession Disadvantaged Business Enterprise (ACDBE) Program.

City has developed and maintains and Company at all times hereunder shall comply with the Disadvantaged Business Enterprise Concession Plan for the Airport in accordance with U.S. Department of Transportation regulations 49 CFR Part 23, which plan establishes policies and procedures designed to promote City's interest in establishing Airport concession opportunities for Disadvantaged Business Enterprises and sets lawful, realistic and reasonable goals therefore, as enforceable in the Ninth Circuit.

Any questions concerning Disadvantaged Business Enterprise (DBE) issues should be directed to DBE Program Coordinator, City of Fresno, Finance 2600 Fresno St. Room 2156 Fresno CA 93721, Telephone (559) 621-1182 or Fax (559) 488-1069.

4.32 Nondiscrimination.

To the extent required by controlling federal, state and local law, Contractor shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Subject to the foregoing and during the performance of this Agreement, Contractor agrees as follows:

- A. Contractor will comply with all applicable laws and regulations providing that no person shall, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, gender identification, ethnicity, status as a disabled veteran or veteran of the Vietnam era be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.
- B. Contractor will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, gender identification, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Contractor shall ensure that applicants are employed, and the employees are treated during employment, without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, gender identification, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Such requirement shall apply to Contractor's employment practices including, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of

pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

- C. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor in pursuit hereof, state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.
- D. Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising such labor union or workers' representatives of Contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4.33 Federal Immigration Reform and Control Act.

As a material part of any Contract for a City of Fresno project, every Contractor who has employees who will work on a City of Fresno project is required to comply with all of the provisions of the Federal Immigration Reform and Control Act of 1986 (P.L. 99-603, 100 Stat. 3359). This requirement includes compliance with all of the employee documentation provisions. Furthermore, Contractor will make any employee documentation required to comply with such Act immediately available to City, upon its request for each individual employee working on a City of Fresno project.

4.34 Confidential Information and Ownership of Documents.

- A. Any reports, information, or other data prepared or assembled by Contractor pursuant to this Agreement shall not be made available to any individual or organization by Contractor without the prior written approval of the Director. During the term of this Agreement, and thereafter, Contractor shall not, without the prior written consent of City, disclose to anyone any Confidential Information. The term Confidential Information for the purposes of this Agreement shall include all proprietary and confidential information of City, including but not limited to business plans, marketing plans, financial information, materials, compilations, documents, instruments, models, source or object codes and other information disclosed or submitted, orally, in writing, or by any other medium or media. All Confidential Information shall be and remain confidential and proprietary in City.
- B. Any and all writings and documents prepared or provided by Contractor pursuant to this Agreement are the property of City at the time of preparation and shall be turned over to City upon expiration or termination of the Agreement. Contractor shall not permit the reproduction or use thereof by any other person except as otherwise expressly provided herein.
- C. This Section 4.34 shall survive expiration or termination of this Agreement.

ARTICLE V: BUDGETS AND EXPENSES

5.01 Approved Operating Expenses.

City shall reimburse Contractor for approved operating expenses, consistent with this Agreement. All budgeted operating expenses incurred by Contractor in the operation of the Parking Facilities, and any other expenses which are specifically approved by the City in writing, shall be reimbursed by the City to Contractor at the Contractor's cost with no markup upon receipt by the City of a monthly "Expense Invoice" from the Contractor, certified by the Parking Manager, acceptable to the City. Expense invoices for other than payroll and payroll related expenses must be provided with Contractor's invoice and supported by copies of vendor invoices. City has the right to use such methods as deemed necessary and appropriate to verify amounts claimed on Contractor's invoices.

"Operating Expenses" shall refer to all direct costs incurred by Contractor, and approved by City, in connection with Contractor's management of the Parking Lot. Approved operating expenses will be reimbursed at Contractor's cost without mark-up. Operating Expense shall mean a reasonable expense necessarily incurred by Contractor in performance of this Agreement, as approved in writing by the Director. Operating expenses reimbursable by City are set out in Sections 5.02 of this Agreement. Operating Expense shall not include any other cost, loss, expense, damage, claim or injury.

5.02 Expense Items.

A. Specific Reimbursable operating expenses are as follows:

1. Wages, salaries and employer's Social Security contributions for all on-site personnel employed by Contractor and approved by City.
2. Actual cost of Worker's Compensation insurance limited to the following percentages of individual wages and salaries by employee category:

Management	8.5%	Cashiers	8.5%
Maintenance	8.5%	Traffic Directors	8.5%
Clerical	8.5%		

In the event the statutory or regulatory base rate is increased during the term of this Agreement, the same percentage of increase shall be applied to the limits above by category. Worker's Compensation insurance premiums and costs are subject to any statutory or regulatory limitations on the amount of individual annual wages against which such premiums and costs are required.

3. Actual Federal and State Unemployment taxes limited to the following percentages of individual wages and salaries by employee category:

Management	4.0%	Cashiers	4.0%
Maintenance	4.0%	Traffic Directors	4.0%
Clerical	4.0%		

In the event the statutory or regulatory base rate is increased during the term of this Agreement, the same percentage of increase shall be applied to the limits above by category. Unemployment insurance premiums and costs are subject to any statutory or regulatory limitations on the amount of individual annual wages against which such premiums and costs are required.

4. Actual Health and Life Insurance premiums for full-time employees, as set out in the Contractor's standard insurance benefits plan, per the annual operations budget, previously approved by the Director.
5. Cost of all City-approved contractual services obtained for cleaning, maintaining and repairing the Parking Facilities and equipment, assigned office space, employee uniforms, etc. Contractual services must be approved in advance by the Director.
6. Taxes, excluding property taxes, franchise taxes, and taxes owed by the Contractor as a result of income from the operation of the Parking Facilities.
7. Utilities, such as electric, general telephone service, water, sewage, storm water, etc.
8. Any license fees, permit fees, and special government assessments for sewer, street lighting, etc. related directly the Parking Facilities or its operation.
9. Tickets, hanging permits, decals, or access cards.
10. Janitorial, office, and other operating supplies.
11. Cost of operating equipment, as approved by the City.
12. Any surcharges, handling fees, processing fees approved by City, including bank account service fees for City's designated depository account, and debit and credit card service fees.
13. Annual audit by a certified public accountant.
14. Monthly billing and usage for cell phones for the Parking Manager and Assistant Parking Manager.
15. Other items expressly approved in writing by the Director.

- B. Excluded Expenses: Operating Expense shall not include any other cost, loss, expense, damage, claim or injury whatsoever. Without limiting the generality of the foregoing, Operating Expense shall not include: the cost of providing and maintaining the equipment required by Section 4.25 A. of this Agreement; any pro-ration or allocation of main office overhead; travel and incidental expenses incurred by any of Contractor's off-site personnel in visiting the Airport for any

reason; any management fee; entertainment, gifts or other gratuities; out of town travel/training expense; salaries, wages and benefits of Contractor's personnel who are not exclusively assigned to duties on site at Airport; insurance required under this Agreement (excepting workers' compensation and unemployment insurance); insurance deductibles; performance bonds, bonds of personnel performing the services required by this Agreement; any other cost, loss, expense, damage or injury for which Contractor is responsible under the terms of this Agreement; or any fees or penalties imposed by governmental agencies. The following shall not be considered reimbursable operating expenses and, if incurred, must be borne by Contractor:

1. Bonds and Insurance that Contractor is required to provide under this Agreement including deductibles (other than provisions for Worker's Compensation and unemployment insurance set out and limited by this Article of the Agreement).
2. Any interest, penalties, or service fees charged to the Contractor as the result of the Contractor's failure to pay debt in a timely fashion.
3. Any accounting or bookkeeping costs for work performed by personnel not assigned to and working at the Parking Facilities, as approved in the annual budget.
4. Any legal costs related to personnel matters, including any collective bargaining activity or agreement, unless specifically approved in advance by the Director.
5. Furniture, booth stools and office equipment including computer(s) for management use. Booth stools shall be replaced annually with new stools.
6. Long distance telephone charges, except those directly related to the operation of the Airport Parking Facilities and properly documented as such by Contractor.
7. Operating change funds or petty cash funds.
8. Any fines or liquidated damages imposed on Contractor under the terms and conditions of this Agreement.

5.03 Wage and Salary Levels.

The Contractor shall set the hourly wage and a range of wages, subject to minimum wage requirements, for hourly employees working at the Parking Facilities. The Contractor shall also set the Manager's salary and any other salaries for personnel working at the Parking Facilities. All wages and salaries are subject to review and approval by the Director, in his/her sole discretion as submitted in the annual operating budget. This shall not preclude the Contractor from compensating employees at a higher rate, except that City shall not be bound or obligated to reimburse Contractor for wage or salary rates that exceed the approved limits. Contractor shall not submit wages or salaries for reimbursement that exceed the approved limits.

5.03.01 Independent Contractor.

- A. It is understood and agreed that Contractor (including Contractor's officers, associates, agents, or employees) is an independent contractor. No relationship of employer-employee, principal-agent or joint venture exists between the parties hereto. Contractor's assigned personnel shall not be entitled to any benefits payable to employees of City. City is not required to make any deductions or withholdings from the compensation payable to Contractor under the provisions of this Agreement. As an independent contractor, Contractor hereby indemnifies and holds City of Fresno harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.
- B. It is further understood and agreed by the parties hereto that Contractor, in the performance of its obligation herein is subject to the control or direction of City as to the designation of tasks to be performed, the results to be accomplished by the services herein agreed to be rendered and performed, and not the means, methods, or sequence used by Contractor for accomplishing the results.
- C. If, in the performance of this Agreement, any third persons are employed by Contractor, such person shall be under the direction, supervision, and control of Contractor. City shall retain the right to verify that Contractor is performing its respective obligations in accordance with the terms thereof. All terms of employment, including hours, wages, working conditions, discipline, hiring and discharging, or any other terms of employment or requirements of law, shall be determined by Contractor, consistent with this Agreement.
- D. It is further understood and agreed that as an independent contractor and not an employee of City, neither the Contractor nor Contractor's assigned personnel shall have any entitlement as a City employee, right to act on behalf of City in any capacity whatsoever as an agent, nor to bind City to any obligation whatsoever.
- E. It is further understood and agreed that Contractor must issue W-2 Forms or other appropriate tax returns/documents for income and employment tax purposes, for all of Contractor's assigned personnel and subcontractors under the terms and conditions of this Agreement.

5.04 Budgets.

- A. Contractor shall submit a *pro forma* annual budget with its proposal. This will be considered only to evaluate the completeness of the proposal. All actual budgets will be negotiated annually or more frequently with the Director.
- B. Director must expressly approve all actual operating budgets.

- C. Thirty (30) days prior to Contractor's commencement of management of the Airport Parking Facilities, Contractor shall submit to the Director, on a form prescribed by Director, a detailed operating budget for the first twelve (12) months of operation, with such detailed supporting data as Director may request. Thereafter, Contractor shall, at least 60 days prior to each anniversary, submit to Director an operating budget for the next fiscal year, as defined by Director.
- D. Director shall provide category definitions, which shall be used by Contractor in developing the budget. "Category definitions" may include multiple line item expenses as, in the opinion of Director, are appropriate for the budgetary controls described herein.
- E. Contractor shall advise Director, as part of the monthly reports, of any case where year-to-date expenditures, based on the budget year, exceed the budgeted amount for any category by more than five percent (5%). In such event, Contractor shall provide an explanation of such variation, including an evaluation of whether the amount budgeted for that category will be sufficient for remaining expenditures expected under that category during the balance of the budget year.
- F. Contractor may, at any time, propose a reallocation of funds between budget categories as appropriate, subject to approval by Director.
- G. Contractor shall, if necessary, prepare and propose a revised operating budget for any year if, in the reasonable opinion of the Contractor, operating expenses will vary more than five percent (5%) from those originally contained in the operating budget. Explanation of variances shall be included as part of any proposed revised operating budget. Any such budget revision shall require the written approval of Director in advance. Without such approval, Contractor shall be liable and bear the cost of any expenditure in excess of the authorized budget amount for that category.
- H. In no event shall Contractor exceed the authorized budgeted amount for any category without the specific written consent of Director. Contractor shall be solely liable for any expenditure, in any category, which exceeds the budgeted amount for that category unless Director approves such excess expenditure in writing.

ARTICLE VI: RECORDS AND REPORTING

6.01 Records and Reporting.

- A. Contractor shall employ collection, accounting and reporting procedures consistent with standard accounting practices accepted within the industry or as specified by Director or City's Department of Finance Director. Contractor shall keep and maintain all such books, records, and accounts and shall make and present to City all such records and reports, including statistical data for analytical use, as so specified. Such books and records shall be kept in such a manner to facilitate reconciliation with the reports and forms to be submitted to City by Contractor. The Director or his/her authorized representative(s) shall have the right at any time to examine the records, books, data and documents

kept by Contractor regarding the operation and maintenance of the Parking Facilities.

- B. Contractor shall retain such records pertaining to each year of its operations under this Agreement for not less than three (3) calendar years following the last day of each Contract Year within the term of this Agreement. Prior to the end of each such three (3) year period, Contractor shall notify the Director, in writing, of Contractor's intent to dispose of any such records, not later than thirty (30) calendar days in advance of such disposal. City reserves the right to assume ownership of such records or any part thereof, without further consideration to Contractor. The Director shall notify Contractor, in writing, as to whether City shall exercise such right, within fifteen (15) calendar days following receipt of notice of intent to dispose from Contractor. In the event that City exercises such right, Contractor shall transfer ownership and possession thereof to City, under arrangements mutually agreed upon by Contractor and the Director.
- C. Notwithstanding the foregoing, records pertaining to unresolved disputed items (such as disputed charges) are not subject to the three (3) year limitation for retention, and shall be retained beyond such three (3) year period until such dispute is resolved to the satisfaction of City. Following such resolution, Contractor shall comply with the notice procedure set forth herein with respect to notice of disposal of records pertaining to such disputed items.
- D. As to any records retained by Contractor outside the boundaries of the City of Fresno, upon request by the Director, Contractor shall make such records available to City at the Airport Administration Office, without charge to City as an Operating Expense, or otherwise.

6.02 Minimum Requirements.

As a minimum, operational and accounting reports shall be submitted to Director on: (1) a daily basis; (2) a monthly basis; and (3) at the end of each fiscal year, as defined by City.

6.03 Submission of Reports.

Contractor shall be held responsible for the conduct of proper revenue control procedures and for the timely preparation and submission of reports associated with such procedures.

6.04 Minimum Records and Reporting Requirements.

Contractor, as part of its minimum records and reporting requirements, shall provide the following:

A. Daily Car Counts and License Plate Inventory.

- 1. Contractor shall conduct, during each 24-hour period (nightly) between the hours of 12:00 AM (midnight) and 6:00 AM, a license plate inventory of vehicles parked in the "Short Term" public parking lot, the "Long Term" public parking lot, and the employees' parking lot. The inventory shall record the inventory information separately for each of these areas.

2. Contractor shall make copies of such "Short Term" and "Long Term" public parking lot inventory reports available at each cashier's booth for use by Contractor: (i) in the calculation of lost ticket parking fees; (ii) to assist patrons in locating misplaced vehicles; (iii) to identify stolen vehicles; (iv) to identify vehicles which have been abandoned; (v) to identify vehicles which have exceeded maximum parking terms; (vi) to assist in the preparation of any reports which are required by applicable provisions of law concerning long-term storage of vehicles; and (vii) as a management tool in determining and analyzing the patterns of current parking facilities utilization and projecting future needs.
3. Portions of the license plate inventory pertaining to the controlled public parking areas shall also be used in establishing Contractor's accountability for issued tickets.
4. The license plate inventory shall include the license plate number and location of each vehicle. If no license plate is available on a vehicle, Contractor shall record the VIN or, if neither is present or visible, shall record sufficient description to distinguish the vehicle at the exit. The inventory shall be collected with hand-held inventory devices and uploaded to an on-site computer with software that will show, for each license plate number or other identifier, the date of first appearance in the facility and the location. The software shall automatically retain all license plates entered for a minimum of three (3) days beyond the last date when the license plate number was entered during the nightly collection process. All license plates remaining in the inventory, but not included in the most recent collection, shall be identified by a special code on the output reports and in the individual database record for that plate to indicate that it was not recorded on-site in the most recent inventory collection.
5. Included with the daily inventory shall be a report of any vehicles remaining in any of the parking areas for more than 30 days. An updated copy of that list shall be maintained in each cashier booth.
6. Contractor shall, at the direction of Director, modify the inventory procedures or forms, in accordance with standards established by Director.

B. Ticket Accountability and Reconciliation. Contractor, in order to establish and maintain the integrity of the PARCS in the Airport Parking Facilities, shall maintain, subject to the approval of Director as to substance and form, records to account for issued tickets and un-issued ticket stock. At a minimum, the system of accountability shall include the following:

1. Contractor shall use a separate series of non-repeating, consecutively numbered tickets for each ticket-dispensing machine.
2. Contractor shall notify the Director within 24 hours of any shipment of tickets. Such notification shall include a manifest indicating the quantity, color, prefix code, and serial numbers of series of tickets.

3. Contractor shall maintain a permanently bound Ticket Log to record the loading of tickets into ticket dispensers. A separate accounting shall be maintained for each ticket dispenser and the associated series of tickets for that ticket dispenser. Entries in the Ticket Log shall include the starting and ending serial numbers of each series of tickets received into stock, signed by the receiver and the Parking Manager. The Ticket Log shall also include entries for all tickets loaded into the ticket dispensers, including the starting and ending serial numbers of loaded tickets, starting and ending serial numbers of unused tickets removed, and the signature of the employee entering the log information.
 4. Any unused ticket stock that is removed from ticket dispensers during the loading of new tickets shall be recorded in the Ticket Log. A report of removed, unused ticket stock, identified by individual serial number or the starting and ending serial numbers of an unbroken series, shall be included with the daily reports. The unused tickets shall be turned in to Director with the daily reports for confirmation and disposal.
 5. Contractor shall perform a quarterly (every three months) inventory of all unused ticket stock, by serial number, to confirm the information recorded in the Ticket Log. The results of that inventory shall be reported to the Director with the set of monthly reports coinciding with the end of the contract quarter, including specific declaration of any discrepancies found in the inventory.
 6. Contractor shall include in the daily reports a reconciliation of the beginning car count, tickets issued, tickets collected, and ending car count for that operating day. Any shortage or overage of tickets that result from that reconciliation shall be computed, reported and clearly identified in the daily reports.
 7. Contractor shall include a similar reconciliation in its set of monthly reports that reconciles the car counts at the beginning and ending of the month to the number of tickets issued and returned during the month. The reconciliation shall include the appropriate adjustments for unused tickets removed during the loading of new tickets, retracted tickets, spoiled tickets and ticket stock, customer lost tickets, and tickets used for equipment testing.
 8. Contractor shall use serially numbered access cards and permits or decals, using the serial numbers to continually account for inventory, issue and status.
 9. The City shall have the right to audit the ticket stock maintained by the Contractor in storage or in the ticket dispensers at any time.
- C. Reporting of Insufficient Funds Transactions. In the event that a patron does not have sufficient funds in any of the authorized forms of payment to satisfy the full amount of a parking fee, Contractor shall collect any partial payment available and require the patron to complete a "Promise to Pay Within Thirty (30) Days" form as an obligation to pay the unpaid amount pursuant to this Article herein.

1. The "Promise to Pay Within Thirty (30) Days" form shall be two-part NCR carbonless forms, serially pre-numbered for accounting purposes. Contractor shall be responsible for providing such "Promise to Pay Within Thirty (30) Days" forms.
2. Copies of any such "Promise to Pay Within Thirty (30) Days" form shall be submitted with daily reports for the day in which the insufficient funds transaction occurred. The daily reports shall include an itemized listing of any Insufficient Funds transactions, including the form number, patron name, and unpaid amount for each such transaction.
3. Contractor shall maintain an accounting of all Insufficient Funds receivables including reconciliation of changes in the outstanding balance of those receivables against both daily and monthly reports of revenue and collections. Such reconciliation shall consist of a standard balance of the beginning and ending total balance of unpaid receivables against the total amount of new receivables resulting from new Insufficient Funds transactions and the total amount of payments received against existing receivables.
4. The unpaid amount shall not be included as Gross Parking Revenue until payment of the outstanding amount, or any portion thereof, is received and deposited. Payments received against outstanding insufficient funds balances shall be identified separately on the daily reports along with the form number and name of the patron. Contractor shall immediately submit to City, thirty days following the date thereof, all Promise to Pay Within Thirty (30) Days Forms for which Contractor has not received a corresponding acceptable payment of the public parking fees and charges due to City for such subsequent collection efforts as City may deem appropriate. City may deduct the full amount of any such loss(es) of revenue upon notice to Contractor from the monthly Base Management Fee otherwise due to Contractor pursuant to this Agreement if such losses are the result of Contractor's failure to comply with the requirement established for processing such transactions of the outstanding amounts.
5. If after thirty days following Contractor's receipt of "Promise to Pay Within Thirty (30) Days" form, Contractor has not received a corresponding acceptable payment of the public parking fees and charges due to City, Contractor shall immediately notify City. Contractor shall be fully and strictly liable to City for any loss(es) of revenue to City as a result of Contractor's processing Insufficient Funds transactions or acceptance of "Promise to Pay Within Thirty (30) Days" form, in a manner inconsistent with requirements established by the City and provided to Contractor in writing.

- D. Accounting for Access Cards and Monthly Parking Permits. Contractor shall maintain a strict accounting for access cards and monthly parking permits or decals issued for parking in the Employee Parking Lot. Contractor shall perform a monthly reconciliation between the number of permits issued during the month, based on issued permit numbers, the amount collected for permit sales during the month, and the unused permits remaining unused at the end of the month. The monthly reconciliation shall be submitted to Director or his/her authorized representative(s) as part of the Monthly Report.

E. Daily Report. Contractor shall prepare a Daily Operating Report and Daily Revenue Report, including ticket reconciliation, for each 24-hour period beginning with the time the daily inventory is completed or some other time as determined by the Director. These reports shall be in a form provided by or approved by the Director. The Director may change or direct the Contractor to change the format of the reports at any time. A copy of each set of Daily Reports shall remain on-site or accessible within 24 hours from a storage location within thirty (30) miles of the Airport, for a period of not less than three (3) years. The Daily Revenue Report shall reflect all financial transactions related to the parking operation for the specified period.

1. The Daily Revenue Report for the period shall include, at a minimum:
 - a. Beginning inventory of vehicles in the public areas of Parking Facility, taken from the nightly license plate inventory, with separate counts for the Short-Term and Long-Term parking areas.
 - b. Beginning inventory of vehicles in the employee parking area(s).
 - c. Number of tickets issued by the ticket dispensers or any other source, based on the serial numbers of each sequence.
 - d. Number of entries recorded by physical counters, if such counters are provided in the lanes.
 - e. Number and extended value of tickets processed and collected, including an itemized record of all transactions that includes the date and time of entry, date and time of exit, duration of stay, amount of fee charged, parking location (currently Short-Term or Long-Term), and type of transaction.
 - f. Number of retracted tickets, spoiled tickets, or tickets processed during equipment testing or voided for any other reason.
 - g. Total number of entry and exit transactions reported by the computerized revenue control system.
 - h. Number and extended value of any monthly permits sold by Contractor's staff, including the serial number of the permit and name of purchaser.
 - i. Number and discounted value of any discount or "no charge" validations.
 - j. Number and value (if provided by the computerized revenue control system) of any non-revenue transactions.
 - k. Number and unpaid amount of any Insufficient Funds transactions, under which customers did not have sufficient funds to pay the full parking fee due.

- l. Number and amount of credit card charges or any other approved form of payment other than cash and checks.
 - m. Total amount of revenue reported by the computerized revenue control system.
 - n. Reconciliation of total ticket values, revenue reported by the computerized revenue control system, credit card charges, and the amount of cash and check deposits.
 - o. Attached copies of deposit slip(s) for parking revenues, including but not limited to permit sales and voided bank deposit slips.
 - p. Attached copies of separate deposit slip(s) in the amount of any deposit made by Contractor in payment of shortages or deposit of overages.
 - q. Amount and source of any other revenue received by Contractor or City, including payments against receivables, as substantiated by copies of deposit slips.
 - r. Combined total Gross Revenue from all sources.
 - s. Combined reconciliation to actual deposits.
 - t. Number of voided tickets including explanations.
 - u. The total number of tickets accounted for.
 - v. Ending inventory of vehicles in the facility.
 - w. Reconciliation of beginning and ending car counts to the number of tickets issued and collected during the reporting day.
 - x. Summary totals to assist the City in auditing and posting information pertaining to daily revenue collections and other related information.
2. After the Daily Revenue Report has been prepared, verified and signed by the Parking Manager, a copy of the report, along with any tickets, receipts, journal tapes, copies of deposit forms, unused and spoiled tickets, shall be bundled, identified with the date of the report, and placed in a secure location, pending audit. The original copy of the Daily Revenue Report, including deposit slips, shall be placed in a separate envelope and prepared and delivered to Director or his/her authorized representative(s) by 3 P.M. on the first business day following such report.
- F. Monthly Report. Contractor shall deliver to the Director or his/her authorized representative(s), by the 20th calendar day of each month a Monthly Report, in a format approved by the Director, which shall summarize financial data by day for

the month. The Monthly Report shall include reconciliation with the daily reports submitted previously and, at a minimum include:

1. Daily car counts and license plate inventory totals by area.
2. Tickets issued by day.
3. Tickets collected by day.
4. Tickets not accounted for by day.
5. Tickets not accounted for during the full month.
6. Revenue by day and by category (transient parking fees, monthly permits, etc.).
7. Total revenue for the month.
8. The number of monthly parking permits issued during the month.
9. Revenue collected from the sale of monthly parking permits during the month.
10. Number of monthly permits remaining unissued at the end of the month.
11. Reconciliation of active monthly cards vs. permits sold for the month.
12. The amount of any uncollectible parking fees from insufficient funds transactions.
13. A listing of insufficient funds receivables forwarded to City during the month for collection action, identified by form number, patron name and remaining balance to be deducted from the balance due Contractor on monthly statement.
14. The balance and changes to the balance of any parking fee receivables.
15. A calculation of deductions from the Base Management Fee, for an excess of tickets not accounted for.
16. Reconciliation of variances, if any, between total on monthly reports and totals of items on the daily reports submitted for that month.

- G. Annual Financial Report. Contractor shall, throughout the term of this Agreement and any extensions thereof, submit to Director a detailed Annual Financial Report of Contractor's operations, pursuant to this Agreement during City's preceding contract year as defined by Director. Such Annual Financial Reports shall be submitted to Director with sufficient timeliness so as to be postmarked no later than forty-five (45) days following the end of each contract year for which the Annual Financial Reports are due. Such report shall include, but not be limited to, collection and disposition of Gross Receipts, Operating Expenses, management

fees, compensation paid by City, payment received by Contractor under any insurance policies, contract costs and payments to subcontractors and suppliers. The report shall be certified for accuracy by an independent Certified Public Accountant. If termination of this Agreement occurs, the Annual Financial Report of Contractor's operations pursuant to this Agreement during that portion of City's fiscal year preceding the date of termination shall be submitted to Director with sufficient timeliness so as to be postmarked no later than ninety (90) calendar days following the date of such termination of this Agreement. The cost of preparing such Annual Financial Report shall be borne by the Contractor. The Annual Financial Reports shall include:

1. Annual financial statements, prepared in accordance with generally accepted accounting principles and accompanied by an audit opinion issued by an independent Certified Public Accountant; and
2. Comprehensive statistical data relating to the operation of the Airport Parking Facilities including, but not limited to, a summary of the data on the monthly reports and including such data for all of City's preceding fiscal years within the term of this Agreement.

H. Annual Operating Report. Concurrent with submission of the Annual Financial Report, Contractor shall prepare and submit an Annual Operating Report. The Annual Operating Report shall reflect operations during the previous calendar year and shall contain, at a minimum:

1. An analysis of parking volumes and revenues for the year, with comparisons to previous years by month and by year;
2. Comments on security issues;
3. A summary record of employee training;
4. A summary record of employee turnover;
5. Comments on the condition of the facilities and equipment;
6. Goals for the coming year; and
7. Proposals for operational or physical improvements.

I. Contractor's Corporate Annual Financial Statements. Contractor shall throughout the effective term of this Agreement and any extensions thereof submit to Director a copy of Contractor's Corporate Annual Consolidated Financial Statements, prepared in accordance with generally accepted accounting principles. Such financial statements shall be accompanied by an audit opinion issued by an independent Certified Public Accountant, for and as of the end of Contractor's preceding contract year (i.e., as of the date of execution of this Agreement, as first above written, April 1, through March 31, inclusive of those dates; but expressly subject to Contractor's right to change Contractor's fiscal year during the term of this Agreement and any extensions thereof). If Contractor's independent Certified Public Accountant, in preparing an audit opinion regarding any such Corporate

Annual Consolidated Financial Statement, or otherwise, causes any audit to be conducted of Contractor's operations hereunder of Airport Parking Facilities, or relies upon any other financial reports, statements or data pertaining specifically to Contractor's services, then copies of any such detailed audit reports, financial reports, financial statements, or financial data shall accompany any such Corporate Annual Consolidated Financial Statement, and be submitted to Director in a timely manner. Such Corporate Annual Consolidated Financial Statements shall be submitted to Director with sufficient timeliness so as to be postmarked no later than 120 days following the end of Contractor's fiscal year for which such Corporate Annual Consolidated Financial Statements are due. If termination of this Agreement occurs, then such Corporate Annual Consolidated Financial Statements for and as of the end of Contractor's fiscal year in which said termination occurred shall be submitted to Director with sufficient timeliness so as to be postmarked no later than 45 days following the end of Contractor's fiscal year in which said termination occurred. The cost of providing copies of such Corporate Annual Consolidated Financial Statements to Director shall be borne by the Contractor.

- J. Additional Reports. At any reasonable time(s), when requested to do so in writing by Director, Contractor shall prepare and submit to City in a timely manner other written financial and/or statistical reports relative to quantifiable and/or non-quantifiable data concerning Contractor's management and/or operation of Airport Parking Facilities including, but not limited to: (1) The charging, collection, deposit and disbursement of all amounts of fees, rates and other charges, made or collected by Contractor; (2) Contractor's procedures therein; and (3) Any other matter(s) related to Contractor's performance under this Agreement. These reports shall be in addition to those specifically required elsewhere in this Agreement.

6.05 Reports of Shortages, Theft, Embezzlement, Etc.

Contractor shall give Director and the Manager of the Airports Department, Public Safety Division, immediate verbal notice upon discovery of ANY shortage in daily Gross Receipts, in excess of the sum of Fifty Dollars (\$50.00), and of any known or reasonably suspected embezzlement, misappropriation, misapplication or theft of Gross Receipts, parking facilities equipment, or other property. Contractor shall submit written confirmation of any such occurrence and/or information in all known detail to Director within twenty-four (24) hours of such verbal notice, or at the opening of the next business day, whichever is later.

6.06 Production and Inspection of Records.

City and its agents shall have the right at all reasonable times, and at all ordinary business hours of the day, to inspect and examine any and all books, ledgers, records, cash registers, PARCS equipment, programs and other data as required to confirm the collection and receipt of all fees and other charges attendant to the operation of Airport Parking Facilities. Contractor shall maintain such records available at the Airport for such inspection and produce same upon City's request.

ARTICLE VII: CONTRACTOR'S COMPENSATION

7.01 Payment.

- A. In full consideration of Contractor's faithful performance of all its obligations under this Agreement, City shall pay to Contractor a management fee consisting of a Base Management Fee in each Operating Year (as defined hereinafter) in the amount of:

\$60,000 in the first Operating Year, and
\$61,200 in the second Operating Year, and
\$62,424 in the third Operating Year, and
\$63,672 in the fourth Operating Year, if this Agreement is so extended,
and
\$64,946 in the fifth Operating Year, if this Agreement is so extended,

7.02 Base Management Fee.

- A. For purposes of this Agreement, the term "Operating Year" means each 12-month period of time during the life of this Agreement commencing respectively on the first date of the initial term of this Agreement or any anniversary thereof.
- B. The Base Management Fee shall be paid by City on a monthly basis within twenty (20) days of submission of the required monthly reports and monthly expense reimbursement request. Payment of the Base Management Fee shall not be delayed by any minor discrepancies or disputed amounts in the reimbursement request.
- C. The Base Management Fee shall be subject to deductions of fees as provided in this Agreement including deductions specified in Article VII herein. In recognition of the fact that end-of-month car counts cannot be recreated if found to be in error after the fact, an annual adjustment, applied to the last monthly Base Management Fee paid in each contract year, shall be made to account for offsetting month-to-month variations so that the total amount of penalties deducted during the contract year properly reflect the actual level of ticket accountability achieved during the full contract year. Should the Agreement terminate prior to the end of a full contract year, the adjustment shall be computed based on the months of completed operations during the current contract year.
- D. To the extent not inconsistent with any applicable provision of the Fresno Municipal Code and/or other laws, the term "Gross Receipts" shall include all parking fees and charges, collected and/or received by Contractor for the parking or storage of automobiles at the Airport as a result of Contractor's management and operation of the Airport Parking Facilities. Contractor shall ensure that all transactions involving such Gross Receipts are properly entered, registered, and recorded by the Parking Facilities' revenue control equipment. The following shall be included as Gross Receipts for the purposes of financial accountability:
1. The combined daily totals of all revenue recorded by the PARCS equipment, including cashier terminal entries, adjusted for under-rings and over-rings, as are appropriately and satisfactorily documented; and

2. Receipts from the employee parking facilities, airlines crew member parking permits, validation parking coupons, "VIP" pre-paid parking coupons and taxicab queuing permits (if applicable) covered herein and collected and/or received by Contractor.

7.03 Subject to Audit.

- A. All records specified in Articles IV, V, VI and VII of this Agreement and management fees paid to Contractor by City shall be subject to audit by City. In addition, the City reserves the right to do operational audits of the PARCS periodically. Any corresponding retroactive adjustment of the amounts paid shall be made by City, based upon the results of any such audit(s).
- B. Except as otherwise expressly provided herein, the cost of any such audit shall be borne by City. In conjunction with any such audits, during the term of this Agreement, and for three (3) years following termination thereof, the Director may request, upon thirty (30) calendar days advance written notice to Contractor, access to records pertaining to this Agreement for the purpose of copying, inspection or special audit. Contractor shall comply with all such requests, which shall not be limited in number, and shall cooperate in providing access to its records. Contractor shall make such records available to City in the Fresno area, or such other location as is mutually agreed upon by the parties.
- C. If, as a result of such inspection, copying or audit, it is determined that City has overpaid Contractor, Contractor shall within thirty (30) calendar days following the date of written notice of such overpayment, pay City a sum of money equal to the amount of such overpayment. Such payment shall be tendered at City's Airport accounting office.
- D. If the results of such audit reveal a discrepancy of more than one percent (1%) between the amounts due and actually paid during any twelve-month period, Contractor shall bear the entire cost of such audit.
- E. If, as a result of such inspection, copying or audit, it is determined that City has underpaid Contractor, City shall pay Contractor an amount equal to such underpayment, within thirty (30) calendar days following such determination.

7.04 Address for Payment.

Payment of the management fees described herein will be sent to such address as Contractor may, from time to time, designate in writing to Director.

7.05 No Other Compensation.

Contractor shall not receive or accept any other compensation in pursuit of this Agreement.

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ARTICLE VIII: DEDUCTIONS AND PENALTIES

8.01 Deductions.

Contractor shall be subject to deductions/setoffs if the Airport is required to pay any sum(s) or incurs any obligations or expenses because of the failure, neglect, or refusal of Contractor to perform or fulfill any of the requirements of this Agreement. Such deductions/setoffs shall include all interest, costs (including legal fees), damages and other fees in conjunction with such sums so paid or expenses so incurred and shall be subtracted from any amount due Contractor.

8.02 Ticket Accountability and Penalties.

Contractor shall be subject to the following financial penalties for failure to maintain sufficient accountability for collection of parking access tickets in the controlled public parking area(s) covered by this Agreement.

- A. 1. Contractor shall perform and provide a monthly computation, submitted to Director with its monthly reports, a reconciliation of ticket accountability as follows:
- (a) The number of vehicles inventoried in the controlled public parking areas at the beginning of the month, which shall be the same as the number recorded as the ending count for the previous month; plus
 - (b) The total number of entry tickets issued by the PARCS equipment during the month; less
 - (c) The number of tickets collected during exit transactions; less
 - (d) The number of tickets duly documented as unused, spoiled, or system test tickets; less
 - (e) The number of vehicles actually inventoried in the facilities at the end of the month.
2. A positive result of this computation indicates a loss of tickets. A negative result indicates an artificial gain of tickets that must be attributable to an inventory, accounting or computation error.
- B. If there is a loss of ticket accountability as indicated by a positive "+" result in the above computation, Contractor shall be liable for the following penalties for each ticket not accounted for, which shall be deducted from the monthly Base Management Fee:
- 1. No penalty for any tickets which are less than 0.3% of the total number of tickets issued during the month.
 - 2. A penalty of five dollars (\$5.00) per ticket for those tickets which are in excess of 0.3% of the total number of tickets issued during the month, but less than 0.5%.

3. A penalty of ten dollars (\$10.00) per ticket for those tickets which are in excess of 0.5% of the total number of tickets issued during the month, but less than 1.0%.
 4. A penalty of fifteen dollars (\$15.00) per ticket for those tickets which are in excess of 1.0% of the total number of tickets issued during the month, but less than 2.0%.
 5. A penalty of twenty dollars (\$20.00) per ticket for those tickets which are in excess of 2.0% of the total number of tickets issued during the month.
- C. An annual computation, applying the same methodology to a contiguous twelve (12) month period and using only the vehicle inventories from the beginning and ending of the contract year, shall be performed at the end of each contract year to determine the net penalties due, if any, during the full year. If, due to variations in end-of-month vehicle inventories, the total amount of penalties assessed and paid, on a monthly basis, through the contract year exceed the amount, if any computed as a penalty under the full contract year computation, the overpayment of penalty shall be refunded to Contractor at the end of the contract year. If the full year computation indicates an underpayment of penalties, the additional penalty amount shall be deducted from the Base Management Fee in the Director's discretion.

ARTICLE IX: TAXES AND ASSESSMENTS

9.01 Taxes and Assessments.

Under this Agreement Contractor is limited to the management and operation of Airport Parking Facilities. Contractor has no interest whatsoever in any improvements thereon including roads, pavement surfaces, curbing, landscaping, lighting, revenue control equipment, buildings, or other structures. Further, inasmuch as Contractor holds Gross Receipts in trust for City, Contractor's interest, if any, under this Agreement in the Gross Receipts generated by Contractor's management and operation of Airport Parking Facilities is solely intended to provide an equitable formula and convenient means for compensating Contractor for the varying demands for services made upon Contractor which fluctuate according to the utilization of Airport Parking Facilities.

9.02 Possessory Interest Property Taxes.

In the event a possessory interest tax or other tax is lawfully levied upon Contractor, relative to Contractor's management and/or operation of City-owned improvements upon City-owned property under this Agreement, Contractor shall be responsible for delivering any possessory interest tax bill to the City for handling and payment.

9.03 Personal Property Taxes.

Contractor shall be responsible for the payment of any personal property tax levied on fixtures, furniture, equipment or other personal property owned by Contractor. Contractor shall pay, when due and as same become due and payable, but not later than fifteen (15) days prior to the delinquency date thereof, any personal property tax levied upon

property belonging to the Contractor. Contractor agrees to protect and hold harmless City, City's Airport, and Airport Parking Facilities, and all of City's interest therein and improvements thereon from any such personal property taxes and assessments, including any interest, penalties and other expenses which may be imposed thereby, and from any lien therefore, or sale, or other proceedings to enforce payment thereof.

9.04 Other Taxes, Licenses, Etc.

Contractor shall pay all other license fees, taxes, etc. levied on the business or operations conducted by Contractor by the Federal, State, County or other tax levying body(ies).

9.05 Right to Contest Taxes.

Nothing herein shall limit Contractor's right in its own name to contest in good faith, by any appropriate proceedings, the amount, applicability and/or validity of any tax assessment levied on Contractor's assets, business or operations. No such contest shall subject any Airport property to potential forfeiture or loss or any asset of Contractor which is necessary to Contractor's fulfilling any condition of this Agreement to forfeiture or loss.

ARTICLE X: LIENS AND CLAIMS

10.01 Contractor shall not suffer or permit to be enforced against City's title to the Parking Facilities any lien, claim or demand, arising from any tax, work of construction or improvement (except liens, claims or demands suffered by or arising solely from the actions of City) or otherwise, and Contractor shall pay all such liens, claims, and demands before any action is brought to enforce same against said Parking Facilities. Contractor agrees to hold City and said Parking Facilities free and harmless from all liability for any and all such liens, claims or demands, together with all costs and expenses in connection therein. City shall have the right at any time to post and maintain on said Parking Facilities such notices as may be necessary to protect City against liability for all such liens, claims and demands.

ARTICLE XI: INDEMNITY AND INSURANCE

11.01 Indemnification/Defense/Hold Harmless Agreement.

To the furthest extent allowed by law, the Contractor shall indemnify, hold harmless and defend the City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including, but not limited to personal injury, death at any time and property damage) incurred by the City, the Contractor or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of the Project. The Contractor's obligations under the preceding sentence shall apply regardless of whether the City or any of its officers, officials, employees, agents or volunteers are actively or passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the gross negligence or willful misconduct of the City or any of its officers, officials, employees, agents or volunteers.

If the Contractor should subcontract all or any portion of the Agreement, the Contractor shall require each subcontractor to indemnify, hold harmless and defend the City and each of its officers, officials, employees, agents, and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

11.02 Insurance.

Throughout the term of this Agreement, Contractor shall, at Contractor's expense, maintain the insurance coverages in this Section 11.02. During Contractor's activity at the Airport, the Contractor shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide, or (ii) authorized by City's Risk Manager or his/her designee. The required types of insurance coverage and the minimum limits of coverage are set forth as follows:

- A. COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) form CA 00 01 and shall include coverage for all owned, hired and non-automobiles or other licensed vehicles (Code 1 – Any Auto) with limits of liability of not less than one million dollars (\$1,000,000) per accident for bodily injury and property damage.
- B. COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as Insurance Services Office (ISO) form CG 00 01 and shall include insurance for "bodily injury", "property damage" and "personal and advertising injury", with coverage for premises and operation, products and completed operations and contractual liability with limits of liability of not less than two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) general aggregate for bodily injury and property damage, one million dollars (\$1,000,000) per occurrence for personal and advertising injury and two million dollars (\$2,000,000) aggregate for products and completed operations.
- C. GARAGEKEEPERS LIABILITY insurance with limits not less than one million dollars (\$1,000,000) per occurrence.
- D. WORKERS' COMPENSATION insurance as required under the California Labor Code.
- E. EMPLOYERS' LIABILITY insurance with minimum limits of one million dollars (\$1,000,000) each accident, one million dollars (\$1,000,000) disease each employee and \$1,000,000 disease policy limit.

In the event Contractor purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

Contractor shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Contractor shall also be responsible for payment of any self-

insured retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the City's Risk Manager or his/her designee. At no time shall City be responsible for the payment of any deductibles or self-insured retentions.

The above described policies of insurance shall be endorsed to provide an unrestricted thirty (30) day written notice in favor of the City, of policy cancellation, change or reduction of coverage, except for the Workers' Compensation policy which shall provide a ten (10) day written notice of such cancellation, change or reduction of coverage. Upon issuance by the insurer, broker, or agent of a notice of cancellation, change or reduction in coverage, Contractor shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policies are due to expire during the term of this Agreement, a new certificate evidencing renewal of such policy shall be provided not less than fifteen (15) days prior to the expiration date of the expiring policy(ies).

The General Liability, Automobile Liability and Garagekeepers Liability insurance policies shall name City of Fresno, its officers, officials, agents, employees and volunteers as additional insureds. Such policies of insurance shall be endorsed so Contractor's insurance is primary and no contribution shall be required of the City, its officers, officials, employees, agents and volunteers. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, agents, employees and volunteers. Contractor shall have furnished City with the certificate(s) and applicable endorsements for all required insurance before conducting any activity at the Airport.

Contractor's owned or leased property or property in its care, custody and control, will be at the risk of Contractor only and City will not be liable for any damage thereto or theft thereof. Further, Contractor waives its right of recovery, and its insurers also waive their right of recovery, against City for loss of its owned or leased property or property in its care, custody and control. The phrase "owned or leased property or property in its care, custody and control" shall include, without limitation, business personal property, documents, tools, equipment, fixtures, materials and parts.

Contractor shall furnish City with copies of the actual policies upon the request of City's Risk Manager or his/her designee and this requirement shall survive expiration or termination of this Agreement.

Any failure to maintain the required insurance shall be sufficient cause for the City to terminate this Agreement.

If Contractor should subcontract all or any portion of the work to be performed under this Agreement, Contractor shall require each contractor or subcontractor to provide insurance protection in favor of the City, its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractor's certificates and endorsements shall be on file with Contractor and the City prior to the commencement of any work by the respective contractor or subcontractor.

The City reserves the right to change the required insurance coverage at any time by letter and the Contractor shall comply within thirty (30) days from date of notice.

ARTICLE XII: PERFORMANCE BOND

Concurrent with the execution of this Agreement and prior to exercising any of the rights and privileges herein granted, or performing hereunder any obligation, Contractor shall furnish to City a Performance Bond in the amount of Two Hundred Thousand Dollars (\$200,000.00), executed by a surety licensed to lawfully conduct such business in the State of California and acceptable to City. Such Performance Bond shall be conditioned to insure the faithful and full performance of all of the obligations, covenants, terms and conditions under this Agreement, which is to be performed by Contractor, and to stand as security for the payment, by Contractor of all valid claims by City against Contractor and shall name City as obligee. Such performance bond shall be kept and maintained by Contractor in full force and effect throughout the entire term of this Agreement. If at any time this Agreement terminates or is terminated, there is due and owing to City any sum payable under the terms hereof, or, if City has any claim against Contractor arising out of this Agreement, then said Two Hundred Thousand Dollars (\$200,000.00) or any portion thereof shall be applied in payment of the amount due or in settlement of the claim or claims of City against Contractor. City may, at its option throughout the term of this Agreement require Contractor to increase the amount of such performance bond so furnished, or require Contractor to furnish additional bonds and/or other form(s) of security by giving thirty (30) days written notice to Contractor, provided, however, that City has determined that there is a reasonable business reason or basis therefore and that City so notifies Contractor thereof in City's written notice to Contractor as hereinbefore provided.

ARTICLE XIII: FIDELITY BONDING OF CONTRACTOR AND EMPLOYEES

Contractor shall furnish Fidelity Bond(s) to City and cause to be bonded with a surety company, licensed to lawfully conduct such business in the State of California and acceptable to City, as the sole surety for each of its officers, employees, and other persons engaged in its operation of the subject Parking Facilities, whose duties will involve the charging or collecting of parking fees or charges, or the handling or receipt of, or access to any City monies or funds. City shall be named as beneficiary thereof, in an amount not less than Fifty Thousand Dollars (\$50,000) per employee, conditioned upon the honest and faithful performance of the duties of the employment or other engagement of such persons.

In lieu of a Fidelity Bond the City will accept a Commercial Crime policy with coverage for employee dishonesty with limits of liability of not less than \$1,000,000. The policy shall contain a Blanket Client Property - Off Premises Endorsement and Joint Loss Payee Endorsement in favor of the City.

ARTICLE XIV: SIGNS AND TRAFFIC CONTROL DEVICES

- 14.01 The following provisions shall govern the placement and use of signs and other informational and directional devices.
- 14.02 The City has installed at each entrance to the public Parking Facilities an informational sign that describes the current schedule of parking rates for the respective parking area. City shall, at its expense maintain the rate information displayed on said signs in a current status.
- 14.03 City shall also install and maintain at each exit lane sign(s) displaying the current parking rates for the respective facility.

- 14.04 City shall locate and maintain signs, barricades, flashers, and other traffic control devices and do all other things as may be reasonably necessary to warn people of any defective or dangerous condition that may at any time exist in the Parking Facilities. Contractor shall be responsible for notifying City immediately of any such defective or dangerous conditions as they arise. City shall also, as the necessity arises, post such other directional and informational signs in and about the Parking Facilities as may be desirable to facilitate the safe and adequate flow of traffic and convenient use of the facilities by the public.
- 14.05 Contractor shall install in the areas of each entrance and exit lane of the public Parking Facilities approved signs identifying the Contractor's business name and a local telephone number and/or other "toll free" telephone number, which may be used by the public to communicate any questions, complaints, and/ or comments regarding the use, operation, and/or management of City's Airport Parking Facilities. All such signs shall be in keeping with the overall aesthetics and utility of Airport facilities, and shall be designed, made and installed in a professional manner to the express satisfaction of the Director.
- 14.06 Except as herein above set forth, no other signs shall be installed or placed by Contractor on the Airport until Contractor has submitted a written request(s), together with descriptions and drawings showing the proposed locations, size and style to Director and has received prior written approval from Director. In any event, no signs of any advertising nature or purpose will be permitted.

ARTICLE XV: INGRESS AND EGRESS

Subject to regulations governing the use of the Airport and operations therein, Contractor, its officers, employees, agents, patrons and invitees, and its suppliers of service and furnishers of material shall have the right of ingress to and egress from the Airport Parking Facilities subject to this Agreement. However, Contractor's employees shall NOT be permitted to park any privately owned vehicles for their personal transportation or use upon the Airport Parking Facilities during their scheduled working hours. Contractor and its employees may utilize the employees' parking lot as is provided for above in paragraph B of Section 2.01 of this Agreement.

ARTICLE XVI: INSPECTION

Contractor shall allow City's authorized representatives access to the Parking Facilities at all hours of the day or night for the purpose of: examining and inspecting the Parking Facilities and operations contemplated herein; or for purposes necessary, incidental to or connected with the performance of any of City's obligations under this Agreement; or in the exercise of City's proprietary or governmental functions.

ARTICLE XVII: TERM AND OPTION TO EXTEND

17.01 Term.

The initial term of this Agreement shall be for a period of three (3) years, beginning April 1, 2014 and ending March 31, 2017, unless sooner terminated as hereinafter provided.

17.02 Options to Extend Term.

City hereby specifically reserves to itself, and Contractor hereby grants to City the option to extend the term of this Agreement for up to two (2) additional and consecutive one (1) year renewal terms, upon the terms and conditions herein, exercisable solely at the discretion of the City.

- A. City's exercise of each of these options, or City's failure to exercise same, shall not require any justification, written or otherwise. Contractor's Base Management Fee during each optional renewal term shall be as provided in Section 7.02 of this Agreement.
- B. City must provide written notice to Contractor of City's intention to exercise City's option at least ninety (90) days prior to the then scheduled expiration of this Agreement.
- C. These option(s) are null and void if the exercise of such is or becomes inconsistent with constitutional, legal and /or local law requirements.

ARTICLE XVIII: ASSIGNMENT

Contractor shall not assign or transfer this Agreement, or any right, obligation or interest created herein, or permit any person(s), company or corporation to perform the services herein contemplated without the prior written consent of City. However, such consent of City shall not be required for Contractor's assignment of this Agreement to Contractor's wholly owned subsidiary, provided Contractor's subsidiary/assignee is otherwise qualified to perform under this Agreement and provided that Contractor serves City with thirty (30) days prior written notice of such assignment and provides City with any supporting information/materials upon the request of City.

ARTICLE XIX: TERMINATION BY CITY

19.01 City may terminate without liability for breach or otherwise, or waiver of claims then due and owing this Agreement, in the event of any one or more of the following events:

- A. The permanent abandonment of the Airport as an air terminal serving scheduled airlines; or
- B. The lawful assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of the Airport in such manner as to restrict Contractor for a period of at least three (3) months from operating therefrom; or
- C. The issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the Airport and the remaining in force of such injunction for a period of at least three (3) months; or
- D. The failure by Contractor to operate the Parking Facilities herein described on a 24 hours per day, 7 days per week, uninterrupted basis; or the failure by Contractor to make any required daily deposit into City's designated bank

account of all parking receipts. In either event, City shall have the right to give immediate notice of termination; or

- E. The failure or neglect by Contractor to perform or observe any of the covenants or obligations contained herein on its part to be kept or performed and the continuation of such failure or neglect for a period of ten (10) days after City has notified Contractor in writing of Contractor's default hereunder and Contractor has failed to correct such default within said ten (10) days. If any such default is of such nature that it cannot be remedied within ten (10) days and Contractor shall have commenced the elimination of such default promptly after receipt of City's notice of such default and shall continuously and diligently proceed in good faith to eliminate such default, then the period for correction will be extended for such length of time as is reasonably necessary to complete such correction but in no event for any length of time in excess of the actual time necessary to complete such correction; or
- F. Contractor's insolvency, voluntary or involuntary petition in bankruptcy or assignment of Contractor's assets for the benefit of creditors. If the City shall not be permitted to terminate this Agreement as hereinabove provided because of the provisions of Title 11 of the United States Code relating to Bankruptcy, as amended ("Bankruptcy Code"), then Contractor as a debtor-in-possession or any trustee for Contractor agrees to promptly, within no more than sixty (60) days upon request by the City to the Bankruptcy Court, assume or reject this Agreement. In such event, Contractor or any trustee for Contractor may only assume this Agreement if: (a) it cures and provides adequate assurance that the trustee will promptly cure any default hereunder; (b) compensates or provides adequate assurances that the trustee or Contractor will promptly compensate the City for any actual pecuniary loss to the City resulting from Contractor's default; and (c) provides adequate assurance of performance during the fully stated term hereof of all of the terms, covenants, and provisions of this Agreement to be performed by Contractor. In no event after the assumption of this Agreement shall any then existing default remain uncured for a period in excess of the earlier of ten (10) days or the time period set herein.
- G. City's failure to appropriate funds sufficient to continue this Agreement in force and effect.
- H. In the event of non-appropriation relation to the Agreement, City shall have the right to terminate the Agreement at the end of any fiscal year of City, in the manner and subject to the terms specified in this paragraph. City shall endeavor to give written notice of such termination not less than sixty (60) days prior to the end of such fiscal year, and shall notify Contractor of any anticipated termination. For purposes of this paragraph, "fiscal year" shall mean the twelve month fiscal period of City which commences on July 1 in every year and ends on the following June 30. For purposes of this paragraph, "non-appropriation", shall mean the failure of the City or City's governing body to appropriate money for any fiscal year of City sufficient for the continued performance of the Agreement by the City.

19.02 In any of said events, City may after reasonable demand or notice, lawfully enter onto said Parking Facilities and remove Contractor's effects, without prejudice to any remedy or

recovery which otherwise might be available to City. Disposition of Contractor's business fixtures, equipment and furnishings shall be governed by the provisions of Article XXI "Disposition of Contractor's Equipment", consistent with controlling law.

ARTICLE XX: TERMINATION BY CONTRACTOR

20.01 Contractor may terminate this Agreement without liability for breach or otherwise or waiver of claims then due and owing in the event of any one or more of the following events:

- A. The permanent abandonment of the Airport as an air terminal serving scheduled airlines; or
- B. The lawful assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of the Airport in such manner as to restrict Contractor for a period of at least three (3) months from operating therefrom; or
- C. The issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the Airport and the remaining in force of such injunction for a period of at least three (3) months; or
- D. The default by City in the performance of any covenant or condition herein required to be performed by City and the failure of City to remedy such default for a period of two (2) months after receipt from Contractor of written notice to remedy same.

20.02 If Contractor exercises its right to terminate this Agreement, disposition of Contractor's business fixtures shall be governed by the provisions of Article XXI, consistent with controlling law.

ARTICLE XXI: REDELIVERY AND TRANSITION OPERATIONS

Contractor will make no unlawful or offensive use of the Parking Facilities and, except as hereinafter provided, shall, at the expiration of the term hereof, or upon any sooner termination thereof, without further notice, discontinue its use and quit and deliver up said Facilities to City in as good order and condition, reasonable use and wear thereof excepted, as the same now are or may hereafter be placed by Contractor or City. Upon termination of this Agreement, through passage of time or otherwise, and if requested to do so in writing by City, Contractor shall aid City in all ways possible in continuing uninterruptedly the operation of the Parking Facilities as herein described by continuing Contractor's management and operations of City's Airport Parking Facilities on a temporary basis, not to exceed ninety (90) days with such continuance subject to cancellation by either City or Contractor upon service of thirty (30) days advance written notice to the other party. Any such additional service shall be at the same level(s) of service and under all of the same terms and conditions, including the same consideration and rate(s) of compensation to Contractor, as were in effect pursuant to this Agreement immediately previous to such termination, and as if this Agreement had been extended for such temporary period by an amendment hereto.

ARTICLE XXII: DISPOSITION OF CONTRACTOR'S EQUIPMENT

22.01 Upon expiration or termination of this Agreement, City shall have the right to purchase any or all of Contractor's trade fixtures, equipment and furnishings, then in place or use on the

Parking Facilities covered by this Agreement. Any of Contractor's trade fixtures, equipment and furnishings, which City does not elect to purchase, shall be removed by Contractor at its sole cost and expense within three (3) days of expiration/termination.

22.02 Should City elect to exercise any right to purchase as herein provided, City shall notify Contractor in writing within ten (10) days after such expiration/termination date that City desires to purchase any or all of said trade fixtures, equipment and furnishings. In the event City exercises its option to purchase any or all of said trade fixtures, equipment and furnishings, it is agreed that the purchase price shall be at the value thereof determined by an actual appraisal in accordance with the following procedure:

- A. Contractor shall upon demand furnish to City a certified statement itemizing the then existing trade fixtures, equipment and furnishings placed or installed by Contractor on the Parking Facilities, showing the following detail:
 - 1. Date of acquisition;
 - 2. Initial purchase cost, including transportation and installation charges; and
 - 3. The depreciated book cost at the date of transfer of any used equipment already owned by Contractor and transferred from another location to the facilities, plus delivery and installation charges therefore.

22.03 The value of said trade fixtures, equipment and furnishings remaining on the Parking Facilities at the date of expiration/termination of this Agreement shall be determined by an actual appraisal and will include consideration of the reported cost and age of the fixtures, equipment and furnishings.

22.04 The aggregate sum of the values of the trade fixtures, equipment and furnishings so determined which City elects to purchase shall be paid by City to Contractor within three (3) months from the date of the termination of this Agreement, and title to said trade fixtures, equipment and furnishings shall immediately vest in City, provided that if there are any taxes, liens, chattel mortgages or other encumbrances against said property at the date of the termination of this Agreement, at the election of City, either the total amount thereof shall first be deducted from any payments due Contractor from City, or Contractor shall first pay all such claims or judgments and furnish satisfactory evidence thereof to City. Contractor shall execute or cause the execution of such lien releases, bill(s) of sale and other documents as required by City to document this transaction.

ARTICLE XXIII: OBSERVATION OF GOVERNMENTAL REGULATIONS

23.01 City reserves the right to adopt, amend and enforce reasonable rules and regulations governing the Airport, including the Parking Facilities and Contractor's activities therein and thereon, and the public areas and facilities used by Contractor in connection therewith. Such rules and regulations shall be consistent with the safety, security and overall public utility of the Airport and with the rules, regulations and orders of the Federal Aviation Administration (FAA), or such other successor agency as may hereafter be designated by the Federal Government, with respect to aircraft and airport operations, and such rules and regulations shall not be inconsistent with the provisions of this Agreement or the procedures prescribed and approved from time to time by the FAA with respect to the operation of aircraft at the Airport. Contractor

agrees to observe, obey and abide by all such rules and regulations heretofore and hereafter adopted or amended by City, including compliance with FAA and Airport security rules, regulations and plans. Contractor shall be fully liable to City for any and all claims, demands, damages, fines, and/or penalties of any nature whatsoever which may be imposed upon City by the United States Government as a result of any unauthorized entry by Contractor, Contractor's officers, employees, agents, representatives, servants, or any vehicle operated by any of these into any area of the Airport to which access by persons or vehicles is restricted/controlled pursuant to FAA Airport Security Rules and Regulations.

23.02 In providing the services required under this Agreement, Contractor shall at all times comply with all applicable rules, regulations, laws, ordinances, statutes or orders of any Federal, State, County and City now in force and as they may be enacted, issued or amended during the term of this Agreement. Contractor shall comply with all applicable regulations promulgated by Federal, State, Regional, or Local Administration or regulatory agencies lawfully exercising authority over the Airport and/or Contractor's conduct of its business or activities hereunder, including, but not limited to, any and all business license and permit requirements.

23.03 Those provisions set forth within Section B of Exhibit "B", "Assurances Required by the Federal Aviation Administration", attached hereto and made a part hereof, are specific provisions required by the FAA to be appropriately included within agreements (including, without limitation, leases, licenses, permits and contracts) between the City of Fresno, California and any and all entities who use or perform work or conduct activities on City owned airport premises for aeronautical or non-aeronautical purposes. Contractor, by its signature(s) hereunto affixed, acknowledges that it has reviewed the aforesaid Exhibit "B", in its entirety, and fully understands the meaning, purpose and intent thereof. Contractor hereby expressly agrees that, throughout the life hereof, it shall fully and faithfully comply with, abide by and/or adhere to, as applicable and appropriate, each and every one of the numbered provisions contained within Section B of said Exhibit "B" (as said numbered provisions are reflected therein or as same may be amended, from time to time, during the life hereof, by City, as the FAA requirements thereon imposed may so dictate), which, pursuant to the guidelines established within paragraphs 2 through 4 of Section A of said Exhibit "B", shall either be applicable to Contractor on the stated date of the term hereof or which, as a result of changing facts and/or circumstances, shall subsequently become applicable to Contractor, hereunder, during the life hereof.

23.04 City shall not be liable to Contractor for any diminution or deprivation of possession or of its rights hereunder, on account of the exercise of any such right or authority as is in this Article provided, nor shall Contractor be entitled to terminate the whole or any portion of this Agreement, by reason of the exercise of such right or authority, unless the exercise thereof shall so interfere with the Contractor's herein authorized uses, occupancies, and/or operations of/at the Airport so as to constitute a termination in whole or in part of this Agreement by operation of law in accordance with the laws of the State of California.

ARTICLE XXIV: EXTENT OF AGREEMENT

Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement, together with those certain Exhibits attached hereto and made a part hereof by reference and all documents/instruments incorporated herein represents the entire and integrated agreement between the parties with respect to any matter mentioned herein, and supersedes all prior negotiations, representations or agreements, either written or oral.

ARTICLE XXV: AMENDMENTS

This Agreement may not be amended or otherwise modified in any way whatsoever, except by written instrument duly authorized and executed by both City and Contractor. Except as otherwise stated in this Agreement, Contractor hereby acknowledges that neither City nor City's officers, employees or agents has made any oral or written warranties or representations to Contractor relative to the condition or use by Contractor of the Airport Parking Facilities and Contractor acknowledges that Contractor assumes all responsibility regarding the Occupational Safety Health Act, the legal use and adaptability of the Airport Parking Facilities, and the compliance thereof with all applicable laws and regulations in effect during the life of this Agreement except as otherwise specifically stated in this Agreement.

ARTICLE XXVI: NO COMPETING INTERESTS

Contractor, during the initial term and any extensions of this Agreement, shall not operate or have any financial interest in a parking facility, or business offering parking for potential airport parking customers, located within five (5) miles of the Airport Terminal Building.

ARTICLE XXVII: MISCELLANEOUS PROVISIONS

27.01 Notices.

Notices to City, provided for in this Agreement, shall be sufficient if in writing and mailed (as an alternative to personal service upon City) by postage prepaid registered or certified United States mail, return receipt requested, addressed as follows:

City of Fresno Airports Administration
Attn: Properties Department
4995 E. Clinton Way
Fresno, CA 93727

or to such other addresses as may be designated by City in writing from time to time and after giving proper notice thereof as provided for herein.

Notices to Contractor, provided for in this Agreement, shall be deemed sufficient if in writing and mailed (as an alternative to personal service upon Contractor) by postage prepaid registered or certified United States mail, return receipt requested, addressed to Contractor as follows:

SP Plus Corporation
200 East Randolph Street, Suite 7700
Chicago, IL 60601
Phone (312) 274-2000
Fax (312) 640-6162

or to such other addresses as may be designated by Contractor in writing from time to time and after giving proper notice thereof as provided for herein.

27.02 Severability.

The provisions of this Agreement are severable. The invalidity or unenforceability of any term, condition, covenant, stipulation, agreement or provision of this Parking Management Agreement shall not affect the other provisions.

27.03 Venue.

This Agreement, and the rights and obligations of the parties hereto, shall be governed by, and construed, interpreted, and enforced pursuant to the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action arising under this Agreement shall be in a proper court of competent jurisdiction in the Judicial District of Fresno County, California.

27.04 Attorney's Fees.

If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses in addition to any other relief to which such party may be entitled.

27.05 Interpretation of Agreement.

The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning. Nothing in this Agreement shall be construed or interpreted, in any manner whatsoever, as limiting, relinquishing or waiving any of the rights of ownership enjoyed by City in Airport property, or in any manner waiving or limiting its control over the operation, maintenance, improvements, developments, etc., of Airport property or in derogation of such governmental rights as City possesses, except as may be specifically provided for herein.

27.06 Paragraph Headings.

The paragraph headings contained herein are for convenience in reference and not intended to define or limit the scope of any provision of this Agreement.

27.07 Waiver.

The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provision of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

27.08 Further Assurances.

Contractor, at Contractor's sole expense, shall upon City's written request, provide City with a reasonable level of expert technical consultant services from the personnel of Contractor's Technical Services Department, and Contractor's Technical Services Department personnel shall assist the City in determining the appropriate technical specifications concerning equipment, installation, and future maintenance to assure a cost effective replacement of City's existing Airport parking revenue control equipment with an integrated PARCS. Contractor's Technical Services Department personnel shall

assist City in all reasonable ways possible in evaluating and comparing the functions and reliability of the equipment offered by various competing manufacturers of PARCS equipment with respect to the prospective application of such equipment under conditions representative of those present at City's Airport Parking Facilities. Further, Contractor shall, upon City's written request diligently continue to advise and assist City in all reasonable ways possible, to facilitate City's purchase and installation of a replacement Airport parking revenue control system under financial terms which are advantageous to City.

27.09 Security Safe.

Contractor, at Contractor's sole expense, shall provide and maintain at City's Airport Parking Facilities for Contractor's daily use in discharging Contractor's responsibilities under this Agreement throughout the term of this Agreement including any extensions thereof, a security safe or locked strongbox, to increase the degree of security and protection over the temporary storage of City's monies pending transportation and deposit of same by Contractor at City's bank. Contractor's provision and use of such safe or locked strongbox shall be subject to the expressed written satisfaction and approval of Director.

27.10 Lien Claims.

So long as City has paid all amounts due hereunder, Contractor shall not create or permit to remain any liens, encumbrance or other like charge on account of Contractor's work or work performed by others on behalf of Contractor and shall, within ten (10) days of written notice from City, cause any such liens or encumbrances to be removed of record or bonded off.

27.11 Proprietary Software.

Contractor may use its own proprietary software in the management of the Parking Facilities, provided its use is approved by Director and the City has the ability to perform audits to verify data used in conjunction with the software. While such software (i.e. source codes) remains the property of the Contractor, the information related to the operation and management of the Parking Facilities remains the property of City. Contractor agrees to provide a copy of such information in a format determined by City at Contractor's sole cost and expense.

27.12 Precedence of Document.

In the event of any conflict between this Agreement and any exhibit or attachment hereto, the terms and conditions of the Agreement shall control and take precedence over the terms and conditions expressed within the exhibit or attachment. Furthermore, any terms or conditions contained within any exhibit or attachment hereto which purport to modify the allocation of risk between the parties provided for within the Agreement shall be null and void.

27.13 Force Majeure.

No party to this Agreement is responsible to the other party for nonperformance or delay in performance of the terms and conditions herein due to acts of God, wars, riots,

strikes, accidents in transportation, fuel or material shortages, or other causes beyond the control of the parties.

27.14 Cumulative Remedies.

No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or equity.

27.15 No Third Party Beneficiaries.

The rights, interests, duties and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

27.16 Binding.

Once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties' representative heirs, successors, assigns, transferees, agents, servants, employees and representatives.

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ARTICLE XXVIII: SIGNATURE

IN WITNESS WHEREOF, City has caused this Agreement to be executed by its Airports Director, and Contractor has caused the same to be executed by its duly authorized officers and its corporate seal to be hereto affixed, all as of the day and year first above written.

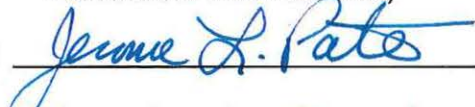
CITY OF FRESNO, CALIFORNIA
A Municipal Corporation

CONTRACTOR
SP PLUS CORPORATION
A Delaware Corporation


By: 
Kevin R. Meikle
Director of Aviation

By: 
Jack Ricchiuto
Title: Executive Vice President - Airports
(If Corp or LLC, Board Chair,
President or Vice President)

Address for Notice:
City of Fresno
Airports Department
4995 E. Clinton Way
Fresno, CA 93727

By: 
Title: Assistant Secretary
(If Corp or LLC, CFO, Treasurer,
Secretary or Assistant Secretary)

ATTEST:
Yvonne Spence, CMC
City Clerk

By: 
Deputy 3/4/2014

Address for Notice:

SP Plus Corporation
200 East Randolph Street, Suite 7700
Chicago, IL 60601
Phone (312) 274-2000
Fax (312) 640-6162

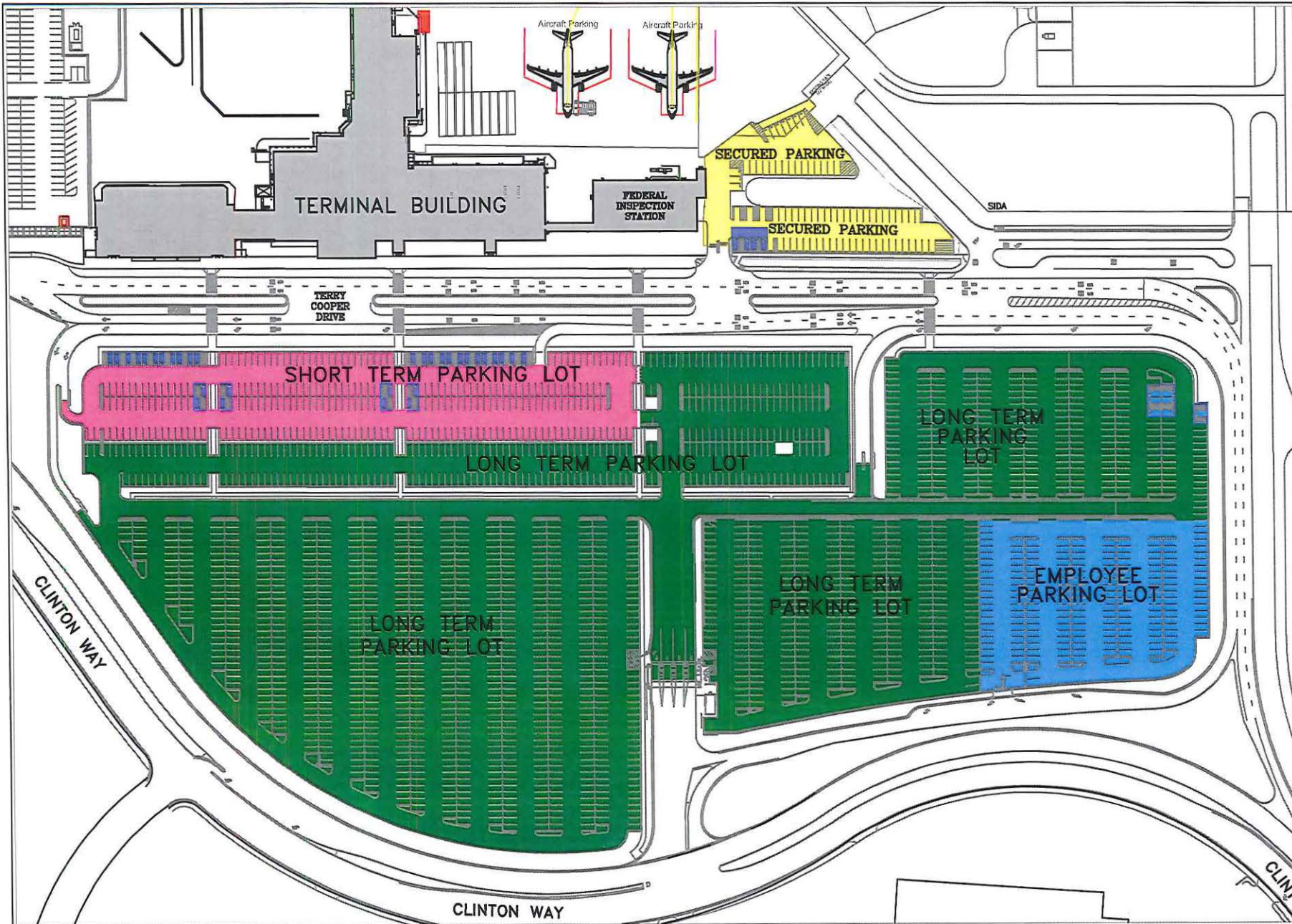
APPROVED AS TO FORM:
Douglas T. Sloan
City Attorney

By: 
Mary Anne B. Tooke, Deputy March 4, 2014 Date

ATTACHMENTS:

- | | |
|-------------|---|
| EXHIBIT "A" | MAP AIRPORT PARKING FACILITIES |
| EXHIBIT "B" | ASSURANCES BY THE FEDERAL AVIATION ADMINISTRATION |
| EXHIBIT "C" | SAMPLE VALIDATION AGREEMENT |
| EXHIBIT "D" | DISCLOSURE OF CONFLICT OF INTEREST |
| EXHIBIT "E" | LISTING OF CURRENT REVENUE CONTROL EQUIPMENT |
| EXHIBIT "F" | LISTING OF CURRENT OFFICE EQUIPMENT AND FURNITURE |

EXHIBIT "A"



FRESNO YOSEMITE
 CITY OF FRESNO
 AIRPORT DEPARTMENT
 2800 N. CLINTON WAY
 FRESNO, CALIFORNIA 93727
 PHONE: 202-407-4323
 CONSULTANT INFORMATION

AIRPORTS DEPARTMENT
FRESNO YOSEMITE INTERNATIONAL AIRPORT
PARKING LOT DISTRIBUTION

DIRECTOR OF AVIATION
 KEVIN R. MERBLE

APPROVED

CONSULT. ENG. _____
 OFFICE ENG. _____
 CITY DESIGN ENG. _____

RVA # 12202
 FUND # _____
 ORG # _____
 ACTIVITY _____
 PROJECT I.D. _____

DRAWN BY: _____
 CHECKED BY: _____
 DATE: 1/16/2014
 SCALE: _____
 FILE: _____

CITY DRAWING NO. 25-A-029
 SHEET NO. 1
 OF 1 SHEETS

LEGEND

- | | | | | | |
|---|---|---|---|---|---|
|  | SHORT TERM PARKING
252 SPACES,
83,564 SQ. FT. |  | EMPLOYEE PARKING
190 SPACES,
73,792 SQ. FT. |  | SECURED PARKING
76 SPACES,
34,643 SQ. FT. |
|  | LONG TERM PARKING
1,681 PARKING SPACES,
619,890 SQ. FT. |  | HANDICAPPED PARKING
43 SPACES,
12,732 SQ. FT. | | |

EXHIBIT A

EXHIBIT "B"



FAA
Airports

Grant Assurances Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.** The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.
2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.** The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project.

C. **Sponsor Certification.** The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1 2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
- o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- q. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.¹
- r. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- t. Copeland Anti kickback Act - 18 U.S.C. 874.1
- u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

Executive Orders

Executive Order 11246 - Equal Employment Opportunity¹
Executive Order 11990 - Protection of Wetlands
Executive Order 11998 – Flood Plain Management
Executive Order 12372 - Intergovernmental Review of Federal Programs
Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New
Building Construction¹
Executive Order 12898 - Environmental Justice

Federal Regulations

- a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
- b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 14 CFR Part 150 - Airport noise compatibility planning.
- d. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- i. 49 CFR Part 20 - New restrictions on lobbying.
- j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.^{1,2}
- m. 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
- n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.¹
- o. 49 CFR Part 29 – Government wide debarment and suspension (nonprocurement) and government wide requirements for drug-free workplace (grants).
- p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.

- q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.¹

Office of Management and Budget Circulars

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
- b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

¹ These laws do not apply to airport planning sponsors.

² These laws do not apply to private sponsors.

³ 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

2. Responsibility and Authority of the Sponsor.

- a. **Public Agency Sponsor:** It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
- b. **Private Sponsor:** It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability. It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure

that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.

g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. **Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.
7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where the project may be located.
8. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.
9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.
10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.
11. **Pavement Preventive Maintenance.** With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport,

it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

- 12. Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.
- 13. Accounting System, Audit, and Record Keeping Requirements.**

 - a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
 - b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.
- 14. Minimum Wage Rates.** It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.
- 15. Veteran's Preference.** It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam

era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

- 16. Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.
- 17. Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.
- 18. Planning Projects.** In carrying out planning projects:

 - a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
 - b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
 - c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
 - d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
 - e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
 - f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
 - g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
 - h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of

this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-
- 1) Operating the airport's aeronautical facilities whenever required;
 - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation. It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use. It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-
 - 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non tenants and signatory carriers and non signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights. It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure. It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the

airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:

- 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
 - 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
 - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
- c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections. It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports

available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. **Use by Government Aircraft.** It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. **Land for Federal Facilities.** It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such

purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and (4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

- 30. Civil Rights.** It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or

(b) the period during which the sponsor retains ownership or possession of the property.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue

from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.
32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement **prescribed** for or by the sponsor of the airport.
 33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
 34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated _____ (the latest approved version as of this grant offer) and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.
 35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.
 36. **Access By Intercity Buses.** The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to

have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

- 37. Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).
- 38. Hangar Construction.** If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.
- 39. Competitive Access.**
- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
 - 1) Describes the requests;
 - 2) Provides an explanation as to why the requests could not be accommodated; and
 - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
 - b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

EXHIBIT "C"

SAMPLE

VALIDATION AGREEMENT

This AGREEMENT is made and entered into as of this _____ day of _____, 2014, by and between (CONTRACTOR) hereinafter referred to as "CONTRACTOR," and (CONCESSIONAIRE), d.b.a. _____, hereinafter referred to as "CONCESSIONAIRE."

WHEREAS, Contractor and Concessionaire desire to enter into this Validation Agreement for the Concessionaire's customers using the Daily and Hourly Parking Lots at Fresno Yosemite International Airport, Fresno, California.

NOW, THEREFORE, for and in consideration of the mutual covenants, obligations and agreements herein contained, Contractor and Concessionaire do hereby mutually agree and covenant as follows:

Concessionaire, at its option, shall be permitted to validate parking tickets for those customers and patrons of the _____ who park at either the Daily and Hourly Parking Lots. Contractor agrees not to charge Concessionaire's customers or patrons for parking time evidenced by properly validated tickets upon presentation of such ticket by such customer or patron at the time of exit from the Daily and Hourly Parking Lots. Validation shall be by means of a validation stamp affixed to the parking ticket. A parking validation shall not exceed one (1) hour per vehicle for such customers or patrons of the Concessionaire who park in the Hourly Parking Lot or shall not exceed two (2) hours for such customers or patrons who park in the Daily Parking Lot. However, Concessionaire's customers or patrons without validated tickets or who park beyond the applicable hourly limit shall be charged the full prevailing rate in force at the time of their exit. Concessionaire shall purchase from Contractor books of validation stamps, with each book containing one hundred (100) stamps, at a cost of; \$0.XX per stamp or ;\$XX.XX per book. Concessionaire also shall promptly reimburse Contractor for the cost of printing such books and pay Contractor a nonrefundable charge of \$XX.XX for each book of stamps upon delivery of each book to Concessionaire.

The parties agree to establish an auditing procedure which procedure shall include Contractor's right of inspection of records of Concessionaire relating to validation under this Agreement.

The term of this Agreement shall commence on the day Concessionaire begins validating tickets for its customers and shall continue on a month-to-month basis thereafter unless and until either party gives thirty (30) days' prior written notice of termination to the other party. However, this Agreement shall not be effective until approved by the Director of Aviation on behalf of the City of Fresno, and a completely executed copy of this Agreement, including the signature of the Director of Aviation, has been delivered to Contractor.

The parties hereto agree that each party shall have the right of inspection of the other party's records specifically relating to the parking validations, during ordinary business hours, upon notice requesting such inspection to the other party. The above-mentioned records shall be kept by both parties at the Air Terminal.

All notices, demands and requests required under this Agreement shall be deemed to have been properly given if served by United States certified or registered mail, postage prepaid with return receipt requested, addressed to the parties hereto as follows:

TO CONTRACTOR:

Company Name
Company Address
Company Address

TO CONCESSIONAIRE:

Company Name
Company Address
Company Address

The parties hereto state that they have not created and do not intend to create by this Agreement any joint venture or partnership relationship between them.

This Agreement contains the entire agreement between the parties and shall not be modified in any manner except by an instrument in writing executed by the parties.

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

CONCESSIONAIRE
D.B.A.

By: _____

Title: _____

CONTRACTOR
A _____ Corporation

By: _____

Title: _____

APPROVED:

CITY OF FRESNO, CALIFORNIA
A Municipal Corporation

By: _____

Kevin R. Meikle

Title: Director of Aviation

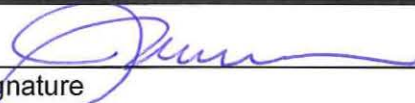
EXHIBIT "D"

Exhibit "D"
DISCLOSURE OF CONFLICT OF INTEREST

Parking Lot Management Agreement between City of Fresno ("Fresno")
And SP Plus, Inc. dba Standard Parking ("Standard")

		YES*	NO
1	Are you currently in litigation with the City of Fresno or any of its agents?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2	Do you represent any firm, organization or person who is in litigation with the City of Fresno?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3	Do you currently represent or perform work for any clients who do business with the City of Fresno?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4	Are you or any of your principals, managers or professionals, owners or investors in a business which does business with the City of Fresno, or in a business which is in litigation with the City of Fresno?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5	Are you or any of your principals, managers or professionals, related by blood or marriage to any City of Fresno employee who has any significant role in the subject matter of this service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6	Do you or any of your subcontractors have, or expect to have, any interest, direct or indirect, in any other contract in connection with this Project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
* If the answer to any question is yes, please explain in full below.			

Explanation: _____


Signature

2/27/14
Date

Date

Jack Ricchiuto
(name)

SP Plus Corporation
(company)

1301 East Ninth Street, Suite #1050
(address)

Cleveland, OH 44114
(city state zip)

Additional page(s) attached.

EXHIBIT "E"

PARKING LOT REVENUE CONTROL EQUIPMENT

Item	Owner
Long Term Entrance 1 Gate	City of Fresno
Long Term Entrance 1 Ticket Spitter	City of Fresno
Long Term Entrance 2 Gate	City of Fresno
Long Term Entrance 2 Ticket Spitter	City of Fresno
Long Term Entrance 3 Gate	City of Fresno
Long Term Entrance 3 Ticket Spitter	City of Fresno
Short Term Entrance 1 Gate	City of Fresno
Short Term Entrance 1 Ticket Spitter	City of Fresno
Short Term Entrance 2 Gate	City of Fresno
Short Term Entrance 2 Ticket Spitter	City of Fresno
Employee Lot Entrance Gate	City of Fresno
Employee Lot Exit Gate	City of Fresno
Exit Booths (4)	City of Fresno
Exit Gates (4)	City of Fresno
3 Fee Computers with ticket validators	City of Fresno
PC Computer for running equipment and applications	City of Fresno
PC Computer Server	City of Fresno
Parking Lot Office	City of Fresno



Long Term Entrance – Gate 1



Long Term Entrance Ticket Spitter – Gate 1



Long Term Entrance – Gate 2



Long Term Entrance Ticket Splitter – Gate 2



Long Term Entrance – Gate 3



Long Term Entrance Ticket Spitter – Gate 3



Short Term Entrance – Gate 1



Short Term Entrance Ticket Spitter – Gate 1



Short Term Entrance – Gate 2



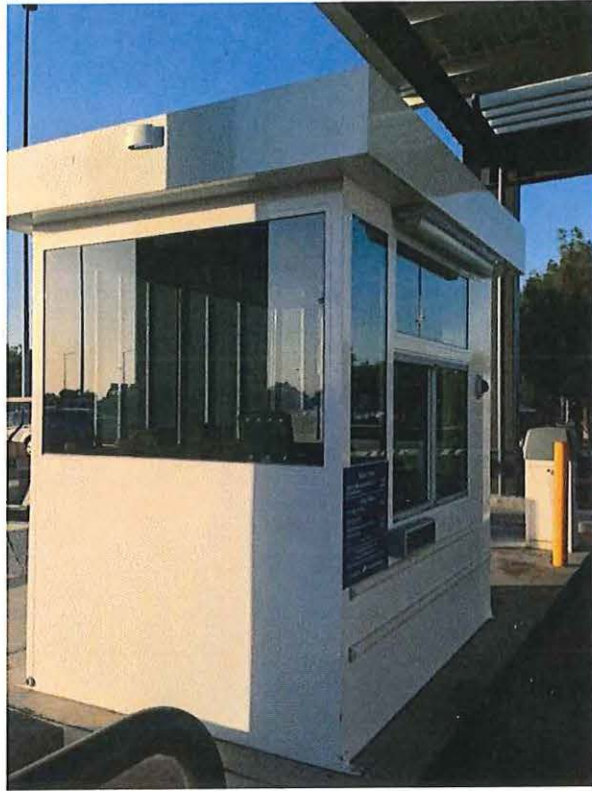
Short Term Entrance Ticket Spitter – Gate 2



Employee Lot Entrance Gate



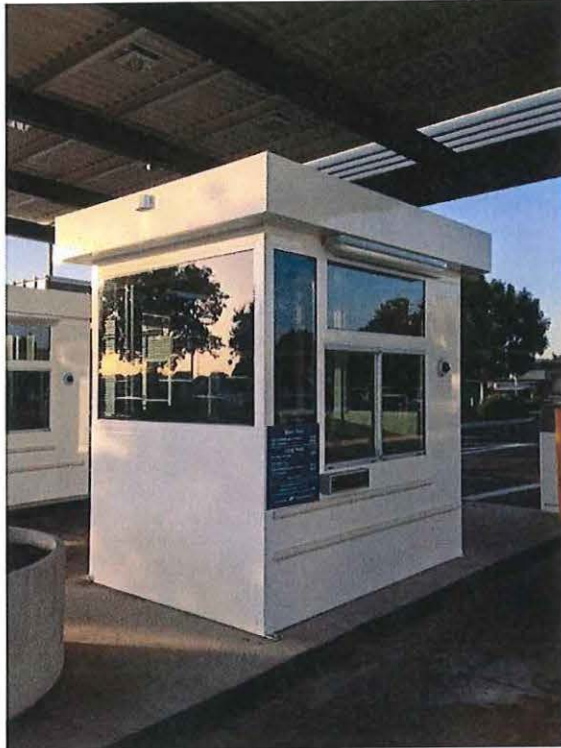
Employee Lot Exit Gate



Exit Booth 1



Exit Booth 2



Exit Booth 3



Exit Booth 4 – Express Parc



Exit Gate 1



Exit Gate 2



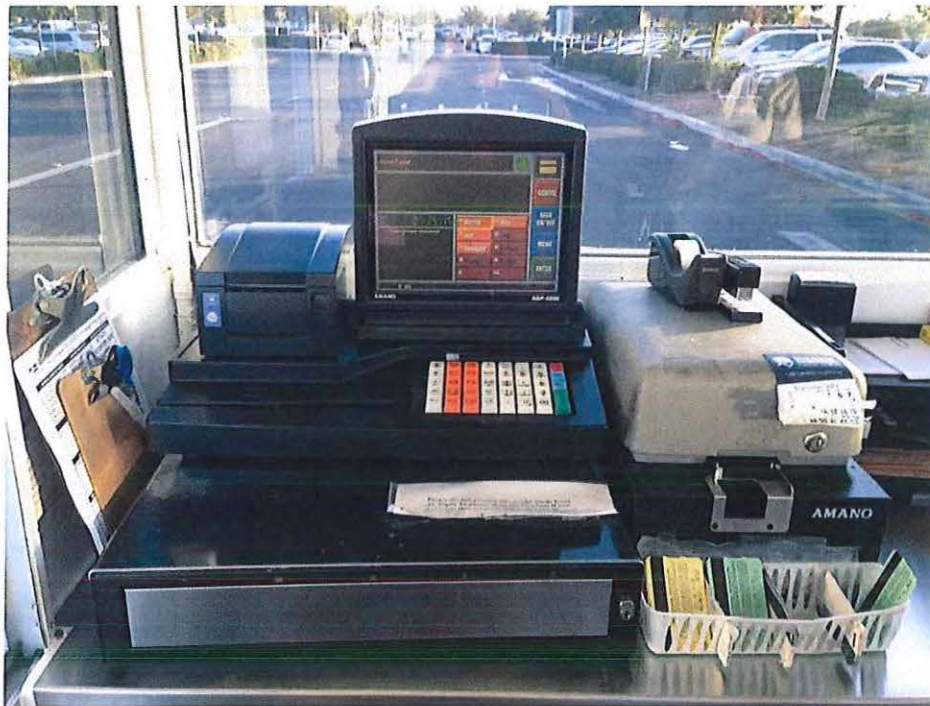
Exit Gate 3



Exit Gate 4



Fee Computer 1 with Validator



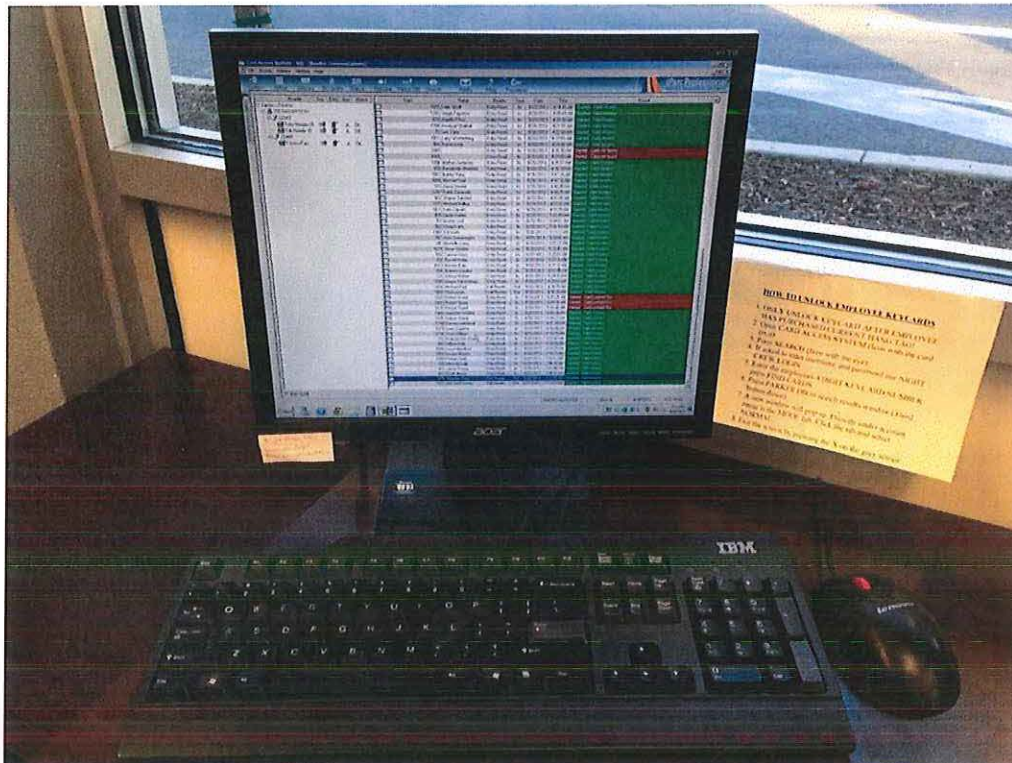
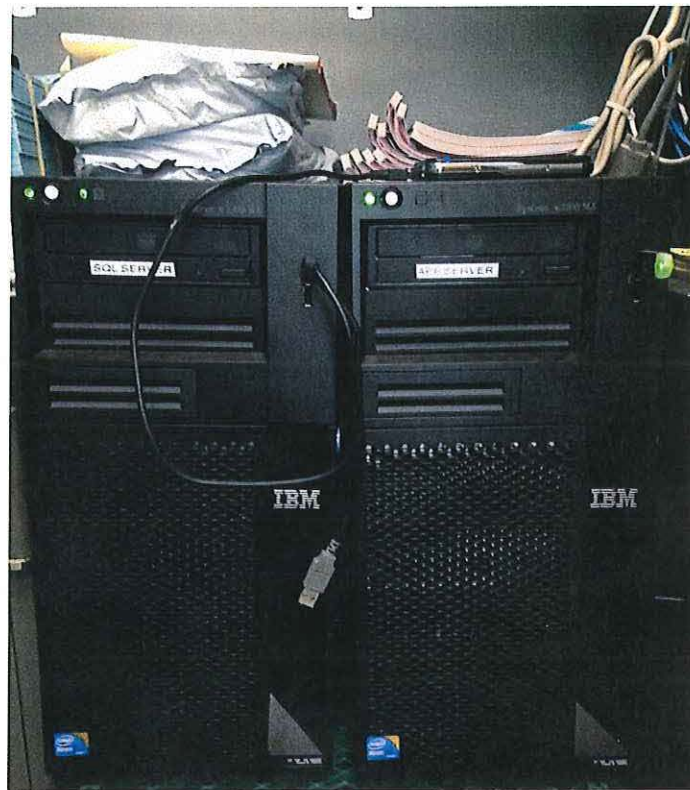
Fee Computer 2 with Validator



Fee Computer 3 with Validator



Express Parc



Applications Computer, Server and Monitor



Parking Lot Office

EXHIBIT "F"

Parking Lot Office - Equipment/Furniture

Item	Owner
Printer	City of Fresno
Fax Machine	City of Fresno
Desk/ Return / Key Board Shelf	City of Fresno
3 office Chairs	City of Fresno
Two computers (office)	City of Fresno
1 Monitor (office)	City of Fresno
Two bookshelves	City of Fresno
1 lateral wooden filing cabinet	City of Fresno
4 filing cabinets	City of Fresno
3 Fee computers	City of Fresno
3 Booth Chairs	City of Fresno
3 validators	City of Fresno
11 exit gates	City of Fresno
5 ticket dispensers	City of Fresno
1 Express Parc	City of Fresno
8 back up batteries	City of Fresno
2 safes	City of Fresno
2 L.P.I.'s	City of Fresno
1 computer and monitor	Standard Parking
Refrigerator in Booth 4	City of Fresno
Vacuum	City of Fresno
Car Battery Jump Starter	City of Fresno
Air Compressor	City of Fresno
Office Supplies	City of Fresno

AMENDMENT NO. 1
TO
PARKING LOT MANAGEMENT AGREEMENT

BETWEEN

CITY OF FRESNO, CALIFORNIA
(A Municipal corporation)

and

SP PLUS CORPORATION
A Delaware Corporation

FIRST AMENDMENT TO AGREEMENT

This FIRST AMENDMENT TO THE PARKING MANAGEMENT SERVICES AGREEMENT ("Amendment") is made and entered into as of the 1st day of December, 2015, by and between the City of Fresno California, a municipal corporation hereinafter referred to as the "City", and SP Plus Corporation, a Delaware Corporation duly admitted in good standing to do business in California, hereinafter referred to as "Contractor".

RECITALS

WHEREAS, City owns and operates the Fresno Yosemite International Airport, a public airport hereinafter referred to as "Airport", located in the City of Fresno, California; and

WHEREAS, City provides automobile parking facilities in the vicinity of the Airlines Passenger Terminal Building at the Airport ("Terminal") for use by the public and employees; and

WHEREAS, Contractor and City (each a "Party"; collectively the "Parties") have heretofore entered into a Parking Lot Management Services Agreement dated February 26, 2014 ("Agreement"); and

WHEREAS, the Parties desire to amend the Agreement for the purpose of making improvements to the Airport's parking facilities; and

WHEREAS, Contractor issued a Request for Proposals (RFP) for Parking and Revenue Control Systems ("PARCS") for the City in May 2015; and

WHEREAS, the Contractor along with Airport staff evaluated and interviewed proposers during the RFP process on September 2, 2015; and

WHEREAS, after a complete evaluation of the proposers, the Contractor and Airport staff desire to award to Sentry Control System, LLC ("Vendor") the contract for the PARCS system at the Airport; and

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and promises hereinafter set forth and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties intending to be legally bound, hereby agree as follows:

1. Pursuant to Article II, Section 2.01(D), "Future Parking Facilities," City authorizes Contractor to purchase and install, at the City's cost and expense, the Parking and Revenue Control System ("PARCS"), shown in Exhibit "A" to this Amendment.
2. The total amount of reimbursement to the Contractor from the City for all components of the purchase and installation of equipment shall not exceed Three Hundred Fifty Six Thousand Nine Hundred Dollars (\$356,900).
3. City shall make four (4) payments to Contractor as follows:
 - a. Payment 1 – 20% of the total purchase cost down at signing of contract between Contractor and Vendor;
 - b. Payment 2 – 30% of remaining purchase cost upon receipt of shipment of all equipment;
 - c. Payment 3 – 30% of remaining purchase cost upon substantial completion of the installation of equipment and initial training plus thirty (30) days of uninterrupted operation; and
 - d. Payment 4 – Final remaining balance upon final completion and uninterrupted operation of the equipment for thirty (30) days.
4. In the event of any conflict between the body of this Amendment No. 1 and any Exhibit or Attachment hereto or document referenced herein, the terms and conditions of the body of this Amendment No. 1 shall control and take precedence over the terms and conditions expressed within the Exhibit, Attachment or document referenced. Furthermore, any terms or conditions contained within any Exhibit, Attachment hereto or document referenced herein which purport to modify the allocation of risk between the parties, provided for within the body of this Amendment No. 1, shall be null and void.
5. All capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.
6. Except as amended herein, the Agreement shall be and remain in full force and effect.

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IN WITNESS WHEREOF, the parties have executed this Amendment at Fresno, California, the day and year first above written.

CITY OF FRESNO, CALIFORNIA
A Municipal Corporation

CONTRACTOR
SP PLUS CORPORATION
A Delaware Corporation

By: *Kevin R. Meikle*
Kevin R. Meikle
Director of Aviation

By: *Jim Ford*
Title: *Senior Vice President*
(If Corp or LLC, Board Chair,
President or Vice President)

Address for Notice:
City of Fresno
Airports Department
4995 E. Clinton Way
Fresno, CA 93727

By: *J. Ch...*
Title: *Assistant Secretary*
(If Corp or LLC, CFO,
Treasurer, Secretary or
Assistant Secretary)

ATTEST:
Yvonne Spence, CMC
City Clerk

By: *Marco Martinez-Velasquez*
Deputy *Marco Martinez - Velasquez*

Address for Notice:
SP Plus Corporation
200 East Randolph Street, Suite 7700
Chicago, IL 60601
Phone (312) 274-2000
Fax (312) 640-6162

APPROVED AS TO FORM:
Douglas T. Sloan
City Attorney

By: *Amanda B. Freeman*
Amanda B. Freeman, Deputy Date

12/23/15

ATTACHMENTS:

EXHIBIT "A": PARKING AND REVENUE CONTROL SYSTEM FORM

EXHIBIT "A"



NOTICE OF STAFF DETERMINATION OF AWARD

Staff has determined the following to be the lowest responsible bidder(s) for the project(s) listed below.

Council Meeting December 17, 2015

Parking And Revenue Control System (PARCS) Equipment for
Parking Lot at Fresno Yosemite International Airport (FAT)
(\$356,900.00)

Sentry Control System, LLC.
Van Nuys, CA

SECOND AMENDMENT
TO
PARKING LOT MANAGEMENT AGREEMENT

BETWEEN

CITY OF FRESNO, CALIFORNIA
(A Municipal corporation)

and

SP PLUS CORPORATION
(A Delaware Corporation)

SECOND AMENDMENT TO AGREEMENT

This **SECOND AMENDMENT TO THE PARKING MANAGEMENT SERVICES AGREEMENT** (Amendment) is made and entered into as of the 31st day of August 2018, by and between the City of Fresno California, a municipal corporation (City), and SP Plus Corporation, a Delaware corporation duly admitted in good standing to do business in California (Contractor).

RECITALS

WHEREAS, City owns and operates the Fresno Yosemite International Airport, a public airport (Airport), located in the City of Fresno, California; and

WHEREAS, City provides automobile parking facilities in the vicinity of the Airlines Passenger Terminal Building at the Airport (Terminal) for use by the public and employees; and

WHEREAS, Contractor and City (each a Party; collectively the Parties) have heretofore entered into a Parking Lot Management Services Agreement on February 26, 2014, and entered into a First Amendment to The Parking Management Services Agreement on December 1, 2015 (Agreement); and

WHEREAS, the parties desire to extend and amend the Agreement upon the terms and conditions herein set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and promises hereinafter set forth and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties intending to be legally bound, hereby agree as follows:

1. Article II shall be deleted in full and replaced with the following:

ARTICLE II: FACILITIES TO BE MANAGED AND OPERATED

- 2.01 The automobile parking facilities to be managed and operated by Contractor consist of the following, including eight (8) entry lanes, each with a ticket dispenser, and one (1) Toll Plaza with four (4) exit booths, and four (4) independent exit lanes for a total of eight (8) exits, which hereinafter shall be referred to collectively as the Airport Parking Facilities or as the Parking Facilities:

- A. Public Parking Lot.

The public parking lot is located generally south of the Terminal, as shown on Exhibit A-1, attached hereto and incorporated by reference herein. At the time of execution of this Agreement, said lot has parking capacity for approximately two hundred eighty three (283) vehicles in the Short Term parking area and approximately two thousand five hundred forty nine (2,549) vehicles in the Long Term parking area.

B. Employee Parking Lot.

The employee parking lot is located generally south of the Terminal, as shown on Exhibit A-1. At the time of execution of this Agreement, this lot has capacity for approximately three hundred twenty one (321) vehicles.

C. Handicapped Parking.

Within the Short Term, Long Term, and Employee Parking, there are fifty four (54) handicapped parking spots shown on Exhibit A-1. The spots are located in the short-term parking lot and employee parking lot.

D. Cell Phone Waiting Lot.

The cell phone waiting lot is located generally south of the Terminal, as shown on Exhibit A-1. At the time of execution of this Agreement, this lot has capacity for approximately one hundred (100) vehicles.

E. Future Parking Facilities.

City shall have the right, at any time during the term of this Agreement, including any extensions thereto, to improve, expand, replace, or modify any or all of the Airport Parking Facilities, and/or any equipment or appurtenances thereto. City reserves the right to construct additional parking facilities to serve the Terminal. Upon thirty (30) days' written notification by the Director of Aviation (Director) to Contractor, any such modified, expanded, or additional parking facilities shall be included within the Airport Parking Facilities and shall be subject to this Agreement. However, in the event of a change in the total number of parking spaces subject to this Agreement of ten percent (10%) or more, any such change shall be subject to negotiation of a Supplement to this Agreement detailing an equitable adjustment to Contractor's Base Management Fee.

F. Taxicab Queuing Lanes and other related airport landside services.

City may require Contractor to manage the taxicab queues and other related landside services at the Airport during the term of this Agreement, subject to negotiation of a Supplement to this Agreement detailing the terms and conditions of such arrangement.

2. Article V, Section 5.02 is hereby amended by deleting subsections 5.02(A)(2) and 5.02(A)(3) in their entirety and replacing it with the following:

2. Actual cost of Worker's Compensation insurance limited to the following percentages of individual wages and salaries' by employee category:

Management	12.0%	Cashiers	12.0%
Maintenance	12.0%	Traffic Directors	12.0%
Clerical	12.0%		

Rates are not to be increased during the term of the Agreement but shall be decreased in the event the statutory or regulatory base rates change. Worker's Compensation insurance premiums and costs are subject to any statutory or regulatory limitations on the amount of individual annual wages against which such premiums and costs are required.

This section 5.02(A)(2) is subject to annual review and proof of actual costs beyond rates and adjustments stated above.

3. Actual Federal and State Unemployment taxes limited to the following percentages of individual wages and salaries' by employee category:

Management	6.0%	Cashiers	6.0%
Maintenance	6.0%	Traffic Directors	6.0%
Clerical	6.0%		

In the event the statutory or regulatory base rate is increased during the term of this Agreement, the same percentage of increase shall be applied to the limits above by category. Unemployment insurance premiums and costs are subject to any statutory or regulatory limitations on the amount of individual annual wages against which such premiums and costs are required.

This section 5.02(A)(3) is subject to annual review upon Contractor's request and proof of actual costs beyond rates and adjustments stated above.

3. Article VII, Section 7.01(A) is hereby amended by inserting the following:

In full consideration of Contractor's faithful performance of all its obligations under this Agreement, City shall pay to Contractor a management fee consisting of a Base Management Fee in each Operating Year during the Extended Term in the amount of:

\$82,198 in the sixth Operating Year, and
\$84,664 in the seventh Operating Year, and
\$87,204 in the eighth Operating Year, and
\$89,820 in the ninth Operating Year, and
\$92,515 in the tenth Operating Year, and

The Base Management Fee shall thereafter increase by three percent (3%) during each Operating Year of any Option Period, if this Agreement is so extended.

4. Article XVII shall be deleted in full and replaced with the following:

17.01 Term.

The initial term of this Agreement was for a period of three (3) years, beginning April 1, 2014, and ending March 31, 2017, and was extended through March 31, 2019, in accordance with City's exercise of two one-year renewal options.

The term of this Agreement is hereby extended for an additional period of five (5) years, beginning April 1, 2019, and ending March 31, 2024 (Extended Term), unless sooner terminated as provided for in the Agreement.

17.02 Options to Extend Term.

City hereby specifically reserves to itself, and Contractor hereby grants to City the option to extend the term of this Agreement for up to two (2) additional and consecutive five (5) -year renewal terms (each an Option Period), upon the terms and conditions herein, exercisable solely at the discretion of the City.

- A. City's exercise of each of these options, or City's failure to exercise same, shall not require any justification, written or otherwise.
- B. City must provide written notice to Contractor of City's intention to exercise City's option at least ninety (90) days prior to the then scheduled expiration of this Agreement.
- C. These options are null and void if the exercise of such is or becomes inconsistent with constitutional, legal, and/or local law requirements.

5. All capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

6. Except as amended herein, the Agreement shall be and remain in full force and effect.

[Signatures on following page]

IN WITNESS WHEREOF, the parties have executed this Second Amendment at Fresno, California, the day and year first above written.

CITY OF FRESNO,
A Municipal Corporation

By: [Signature]
Kevin R. Meikle
Director of Aviation

APPROVED AS TO FORM:
Douglas T. Sloan
City Attorney

By: [Signature] 9/12/18
Date
Brandon M. Collet
Senior Deputy City Attorney

ATTEST:
Yvonne Spence, MMC CRM
City Clerk

By: [Signature] 10/12/18
Date
Deputy Marco Martinez

Address for Notice:
City of Fresno
Airports Department
4995 E. Clinton Way
Fresno, CA 93727

SP PLUS CORPORATION,
A Delaware Corporation

By: [Signature]
Jason Finch,
Senior Vice President

By: [Signature]
Name: James C Burdett
Assistant Secretary

Address for Notice:
SP Plus Corporation
200 East Randolph Street, Suite 7700
Chicago, IL 60601
Phone (312) 274-2000
Fax (312) 640-6162

Attachment:
Exhibit A-1 Map Airport Parking Facilities

EXHIBIT A-1

REV. NO.	DATE	DESCRIPTION

AIRPORTS DEPARTMENT
 FRESNO YOSEMITE INTERNATIONAL AIRPORT
 TERMINAL PARKING
 2019 ULTIMATE

DIRECTOR OF AVIATION
KEVIN R. MEKLE, ARCHITECT

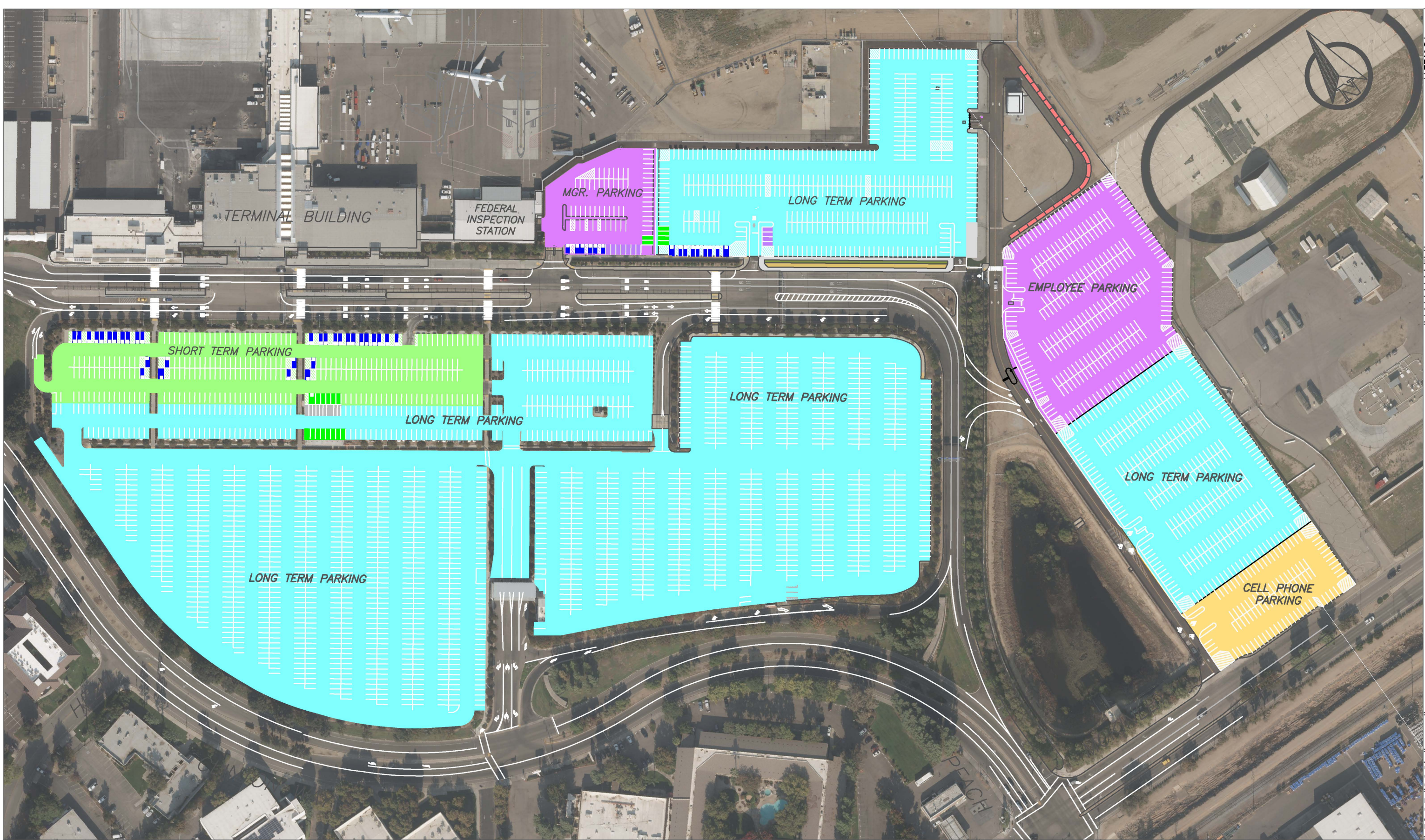
APPROVED
CONST. ENG. _____
OFFICE ENG. _____
CITY DESIGN ENG. _____

FUND # _____
ORG # _____
ACTIVITY _____
PROJECT I.D. _____

DRAWN BY: _____
CHECKED BY: _____
DATE: 02/20/2018
SCALE: N/A

FILE: _____
CITY DRAWING NO. 25-AA-XXX

SHEET NO. **1**
OF 1 SHEETS



LEGEND:

- -
 -
 -
 -
- LONG TERM PARKING LOT (2632)**
 (1879 STALLS EXISTING)
- SHORT TERM PARKING LOT (283)**
 (283 STALLS EXISTING)
- EMPLOYEE & MANAGER PARKING LOT (359)**
 (434 EMPLOYEE STALLS EXISTING)
 (73 MANAGER STALLS EXISTING)
- CELLPHONE PARKING LOT (104)**
 (47 STALLS EXISTING)
- GROUND TRANSPORTATION (21 STALLS)**
 (21 STALLS EXISTING)