

NON-FEDERAL REIMBURSABLE AGREEMENT

BETWEEN

**DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

AND

**CITY OF FRESNO
FRESNO YOSEMITE INTERNATIONAL AIRPORT
FRESNO, CA**

WHEREAS, the Federal Aviation Administration (FAA) can furnish directly or by contract, material, supplies, equipment, and services which the City of Fresno (Sponsor) requires, has funds available for, and has determined should be obtained from the FAA;

WHEREAS, it has been determined that competition with the private sector for provision of such material, supplies, equipment, and services is minimal; the proposed activity will advance the FAA's mission; and the FAA has a unique capability that will be of benefit to the Sponsor while helping to advance the FAA's mission;

WHEREAS, the authority for the FAA to furnish material, supplies, equipment, and services to the Sponsor upon a reimbursable payment basis is found in 49 U.S.C. § 106(l)(6) on such terms and conditions as the Administrator may consider necessary;

NOW THEREFORE, the FAA and the Sponsor mutually agree as follows:

ARTICLE 1. Parties

The Parties to this Agreement are the FAA and the City of Fresno.

ARTICLE 2. Type of Agreement

This Agreement is an "other transaction" authorized under 49 U.S.C. § 106(l)(6). It is not intended to be, nor will it be construed as, a partnership, corporation, joint venture or other business organization.

ARTICLE 3. Scope

- A. The purpose of this Agreement between the FAA and the Sponsor is to provide funding for FAA performance of design review, site visits, technical consultation, construction oversight, and coordination of flight checks, shutdown, restoration of FAA facilities during the re-construction of TWY 'C' project at Fresno, CA. Therefore, this Agreement is titled:

FAA Support for Fresno, CA (FAT) Taxiway ‘C’ Reconstruction Project

B. The FAA will perform the following activities:

1. Review and approve work performed by the Sponsor, with respect to the operation of Navigation Aids (NAVAIDS) and Visual Navigation Aids (VISAIDS) systems and infrastructure and, other FAA-owned systems as required. This includes resolving performance and siting issues to meet FAA orders, standards and specifications.
2. Provide an FAA Resident Engineer (RE) on-site when construction work is planned by Sponsor’s contractors. The RE will inspect work associated FAA-owned systems impacted by the Sponsor’s project.
3. Review Sponsor’s design for impacts to FAA-owned systems. This review shall NOT substitute or bypass the 7460 review process. Provide engineering requirements and recommendations for FAA-owned facilities and infrastructure to the Sponsor which may include, but not limited to the following:
 - a. Review of Sponsor’s 100% design drawings and project planning documents,
 - b. Participate in planning meetings, site visits,
 - c. Provide technical consultation, and
 - d. Perform Mathematical Modeling to predict if the finished grade surface in front of the GS meets the GS performance tolerances, if required.
4. Provide FAA cable specifications should any need replacement.
5. The local FAA System Support Center (SSC) will help coordinate, execute shutdown and restore of impacted FAA facilities.
6. Coordinate and conduct flight inspections required prior to returning Navigational Aids (NAVAIDS) and Visual Navigational Aids (VISAIDS) facilities back to service. Support during the flight inspection which may include but not limited to the following:
 - a. Adjustments to GS antenna heights, and
 - b. Re-establishment of optimal GS station operating parameters.
7. Participate in the Sponsor’s construction Contractor Acceptance Inspection (CAI) for the work that impacts FAA-owned facilities and infrastructure.
8. Conduct Joint Acceptance Inspection(s) (JAI) in accordance with DOT/FAA Order 6010.7A. All exceptions must be cleared or otherwise resolved before this

Agreement can be closed out. If JAI exceptions are not corrected by the Sponsor's contractor within 45 calendar days, the FAA, at its discretion, may elect to correct deficiencies in order to clear remaining JAI exceptions and charge all reasonable and incurred costs to the Sponsor through this Reimbursable Agreement.

C. The Sponsor will perform the following activities:

1. Coordinate key milestones for design completion with FAA Engineering, and provide a detailed schedule of work for Sponsor's project.
2. Provide the FAA with access to the project site, including any airport specific security briefs or driving requirements, for the purposes of site surveys, facility inspection, and other project support activities.
3. Incorporate requirements and specifications made by the FAA into the design drawings and specifications impacting FAA-owned systems. This includes providing dimensions, coordinates, and elevation data for the runway and impacted FAA facilities. Also, provide survey information and documentation verifying the clearance of critical areas and obstruction surfaces relating to the impacted FAA facilities.
4. Submit the Notice of Proposed Construction or Alteration (FAA Form 7460-1) at least 45 days before the start date of the proposed construction. For all work inside the ILS critical areas. Work shall not be performed until written approval is granted through the 7460-1 evaluation process.
5. Submit FAA Form 6000-26 *Airport Sponsor Strategic Event Submission Form* no less than 45 days prior to the start of construction that will impact NAS facilities, result in a full or partial runway closure, or result in a significant taxiway closure. This form is available on the OE/AAA website. This form may also be used to notify the FAA of any changes to the project schedule.
6. Ensure that the FAA criteria for terrain grading tolerances are met, specifically the ILS for Runway 11/29 critical area. Refer to FAA Order 6750.16E for ILS grading specifications.
7. Relocate FAA-owned duct bank and provide new cables impacted by the airport grading project. Remove old cables between, equipment to equipment, termination points, and replace with new and equivalent cables at the discretion of the FAA project engineer. New ducts and cables shall meet FAA specifications. All cable run shall be continuous with no splices and tested per the latest edition of FAA Order 1391.
8. Repair with equivalent short segment splices, via exothermic welding process, any underground bare copper guard wires cut during the airport's grading process.

9. Expeditiously replace or repair, by method and material (at the discretion of the FAA project engineer) any damage to FAA equipment or supporting infrastructure (including, but not limited to, underground cables or any apparatus owned by the FAA) by the Sponsor or Sponsor's contractor.
 10. Re-establish ILS Localizer ground check points impacted by the project. FAA will identify ground check point locations. Install permanent, brass, survey markers or equivalent when points are re-established.
 11. Coordinate runway closure and/or procedural Notices to Airmen (NOTAM), as required.
 12. Obtain all required environmental documentation as applicable.
 13. Provide a full set of plans, including scaled electronic drawings, showing the proposed airport work where FAA facilities are impacted. Provide "as-built" drawings to the FAA in paper and CAEG electronic file transfer form. Drawings shall be on Micro-Station (DGN) or AutoCAD (DWG) version 2012 or older file format. These full set of plans, described as, "as-built" drawings must be completed within 30 calendar days of system commissioning. If as-built drawings are not completed and delivered to the FAA, the FAA at its discretion, may elect to create the remaining "as-built" drawings and charge all reasonable and incurred costs to the Sponsor through this Reimbursable Agreement.
 14. Conduct CAIs and participate in the final JAIs with FAA representatives and correct construction exceptions as noted. All exceptions must be cleared before this Reimbursable Agreement can be closed out. If CAI exceptions are not corrected, by the Sponsor's contractor within 45 calendar days, the FAA at its discretion, may clear remaining CAI exceptions and charge all reasonable and incurred costs to the Sponsor through this Reimbursable Agreement.
- D. This agreement is in whole or in part funded with funding from an AIP grant ☒ Yes ☐ No. If Yes, the grant date is: 09/08/2017 and the grant number is: 3-06-0087-080-2017. If the grant information is not available at the time of agreement execution, the Sponsor will provide the grant information to the FAA when it becomes available.

ARTICLE 4. Points of Contact

A. FAA:

1. The **FAA Western Service Area, Planning and Requirements Group, NAS Planning and Integration team** will provide administrative oversight of this Agreement. **Kien T. Nguyen** is the Planning Specialist and liaison with the Sponsor and can be reached at **(425) 203 4735** or via email at **kien.t.nguyen@faa.gov**. This liaison is not authorized to make any commitment, or otherwise obligate the FAA, or authorize any changes which affect the

estimated cost, period of performance, or other terms and conditions of this Agreement.

2. The **FAA Western Service Area, NAVAIDS Engineering Center C -Los Angeles**, will perform the scope of work included in this Agreement. **Kelly Yamakawa** is the NAVAIDS Engineering team manager and liaison with the Sponsor and can be reached at **(310) 725 3667** or via email at **kelly.yamakawa@faa.gov**. This liaison is not authorized to make any commitment, or otherwise obligate the FAA, or authorize any changes which affect the estimated cost, period of performance, or other terms and conditions of this Agreement.
3. **FAA Contracting Officer**: The execution, amendment, and administration of this Agreement must be authorized and accomplished by the Contracting Officer, **Brad Logan** who can be reached at **(817) 222-4395** or via email at **brad.logan@faa.gov**.

B. Sponsor:

City of Fresno – Airports Department
Fresno Yosemite International Airport
Attn: Mark W. Davis
4995 E. Clinton Way
Fresno, CA 93727
Telephone: (559) 621-4532
Email: mark.davis@fresno.gov

ARTICLE 5. Non-Interference with Operations

The Sponsor understands and hereby agrees that any relocation, replacement, or modification of any existing or future FAA facility, system, and/or equipment covered by this Agreement during its term or any renewal thereof made necessary by Sponsor improvements, changes, or other actions which in the FAA's opinion interfere with the technical and/or operations characteristics of an FAA facility, system, and/or piece of equipment will be at the expense of the Sponsor, except when such improvements or changes are made at the written request of the FAA. In the event such relocations, replacements, or modifications are necessitated due to causes not attributable to either the Sponsor or the FAA, the parties will determine funding responsibility.

ARTICLE 6. Property Transfer – RESERVED

ARTICLE 7. Estimated Costs

The estimated FAA costs associated with this Agreement are as follows:

DESCRIPTION OF REIMBURSABLE ITEM	ESTIMATED COST
Labor	
WB4020 Engineering	\$44,171.00
WB4050 Construction	\$60,725.00
WB4070 Joint Acceptance Inspection	\$1,782.00
Labor Subtotal	\$106,678.00
Labor Overhead	\$15,869.45
Total Labor	\$122,547.45
Non-Labor	
WB4050, WB4070 Travel	\$14,148.00
WB4060 Services	\$38,226.00
Non-Labor Subtotal	\$52,374.00
Non-Labor Overhead	\$3,666.18
Total Non-Labor	\$56,040.18
TOTAL ESTIMATED COST	\$178,587.63

ARTICLE 8. Period of Agreement and Effective Date

The effective date of this Agreement is the date of the last signature. This Agreement is considered complete when the final invoice is provided to the Sponsor and a refund is sent or payment is received as provided for in Article 9, Section E of this Agreement. This Agreement will not extend more than five years beyond its effective date.

ARTICLE 9. Reimbursement and Accounting Arrangements

- A. The Sponsor agrees to prepay the entire estimated cost of the Agreement. The Sponsor will send a copy of the executed Agreement and submit full advance payment in the amount stated in Article 7 to the Accounting Division listed in Section C of this Article. The advance payment will be held as a non-interest bearing deposit. Such advance payment by the Sponsor must be received before the FAA incurs any obligation to implement this Agreement. Upon completion of this Agreement, the final costs will be netted against the advance payment and, as appropriate, a refund or final bill will be sent to the sponsor. Per U.S. Treasury guidelines, refunds under \$1.00 will not be processed. Additionally, FAA will not bill the sponsor for amounts less than \$1.00.

- B. The Sponsor certifies that arrangements for sufficient funding have been made to cover the estimated costs of the Agreement.
- C. The Accounting Division is identified by the FAA as the billing office for this Agreement. The Sponsor will send a copy of the executed Agreement and submit the full advance payment to the Accounting Division. The sponsor can either mail the payment to the address shown below or submit payment (via check or credit card) electronically via pay.gov. All payments mailed to the FAA must include the Agreement number, Agreement name, Sponsor name, and project location.

The mailing address is:

FAA Mike Monroney Aeronautical Center
Attn: AMK-322, Reimbursable Receipt Team
P.O. Box 25770
Oklahoma City, OK 73125

The overnight mailing address is:

FAA Mike Monroney Aeronautical Center
Attn: AMK-322, Reimbursable Receipt Team
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-3771

The Sponsor hereby identifies the office to which the FAA will render bills for the project costs incurred as:

City of Fresno – Airports Department
Fresno Yosemite International Airport
Attn: Lisa Harwood
4995 East Clinton Highway
Fresno, CA 93727
Telephone: (559) 621-4509
Email: lisa.harwood@fresno.gov

- D. The FAA will provide a quarterly Statement of Account of costs incurred against the advance payment.
- E. The cost estimates contained in Article 7 are expected to be the maximum costs associated with this Agreement, but may be amended to recover the FAA's actual costs. If during the course of this Agreement actual costs are expected to exceed the estimated costs, the FAA will notify the Sponsor immediately. The FAA will also provide the Sponsor an amendment to the Agreement which includes the FAA's additional costs. The Sponsor agrees to prepay the entire estimated cost of the amendment. The Sponsor will send a copy of the executed amendment to the Agreement to the FAA-Mike Monroney Aeronautical Center with the additional advance payment. Work identified in the amendment cannot start until receipt of the

additional advance payment. In addition, in the event that a contractor performing work pursuant to the scope of this Agreement brings a claim against the FAA and the FAA incurs additional costs as a result of the claim, the Sponsor agrees to reimburse the FAA for the additional costs incurred whether or not a final bill or a refund has been sent.

ARTICLE 10. Changes and Amendments

Changes and/or amendments to this Agreement will be formalized by a written amendment that will outline in detail the exact nature of the change. Any amendment to this Agreement will be executed in writing and signed by the authorized representative of each party. The parties signing this Agreement and any subsequent amendment(s) represent that each has the authority to execute the same on behalf of their respective organizations. No oral statement by any person will be interpreted as amending or otherwise affecting the terms of the Agreement. Any party to this Agreement may request that it be amended, whereupon the parties will consult to consider such amendments.

ARTICLE 11. Termination

In addition to any other termination rights provided by this Agreement, either party may terminate this Agreement at any time prior to its expiration date, with or without cause, and without incurring any liability or obligation to the terminated party other than payment of amounts due and owing and performance of obligations accrued, in each case on or prior to the termination date, by giving the other party at least thirty (30) days prior written notice of termination. Payment of amounts due and owing may include all costs reimbursable under this Agreement, not previously paid, for the performance of this Agreement before the effective date of the termination; the total cost of terminating and settling contracts entered into by the FAA for the purpose of this Agreement; and any other costs necessary to terminate this Agreement. Upon receipt of a notice of termination, the receiving party will take immediate steps to stop the accrual of any additional obligations which might require payment. All funds due after termination will be netted against the advance payment and, as appropriate, a refund or bill will be issued.

ARTICLE 12. Order of Precedence

If attachments are included in this Agreement and in the event of any inconsistency between the attachments and the terms of this Agreement, the inconsistency will be resolved by giving preference in the following order:

- A. This Agreement
- B. The attachments

ARTICLE 13. Legal Authority

This Agreement is entered into under the authority of 49 U.S.C. § 106(l)(6), which authorizes the Administrator of the FAA to enter into and perform such contracts, leases, cooperative agreements and other transactions as may be necessary to carry out the functions of the Administrator and the Administration on such terms and conditions as the Administrator may consider appropriate. Nothing in this Agreement will be construed as incorporating by reference or implication any provision of Federal acquisition law or regulation.

ARTICLE 14. Disputes

Where possible, disputes will be resolved by informal discussion between the parties. In the event the parties are unable to resolve any dispute through good faith negotiations, the dispute will be resolved by alternative dispute resolution using a method to be agreed upon by the parties. The outcome of the alternative dispute resolution will be final unless it is timely appealed to the Administrator, whose decision is not subject to further administrative review and, to the extent permitted by law, is final and binding (see 49 U.S.C. § 46110).

ARTICLE 15. Warranties

The FAA makes no express or implied warranties as to any matter arising under this Agreement, or as to the ownership, merchantability, or fitness for a particular purpose of any property, including any equipment, device, or software that may be provided under this Agreement.

ARTICLE 16. Insurance

The Sponsor will arrange by insurance or otherwise for the full protection of itself from and against all liability to third parties arising out of, or related to, its performance of this Agreement. The FAA assumes no liability under this Agreement for any losses arising out of any action or inaction by the Sponsor, its employees, or contractors, or any third party acting on its behalf.

ARTICLE 17. Limitation of Liability

To the extent permitted by law, the Sponsor agrees to indemnify and hold harmless the FAA, its officers, agents and employees from all causes of action, suits or claims arising out of the work performed under this Agreement. However, to the extent that such claim is determined to have arisen from the act or omission by an officer, agent, or employee of the FAA acting within the scope of his or her employment, this hold harmless obligation will not apply and the provisions of the Federal Tort Claims Act, 28 U.S.C. § 2671, et seq., will control. The FAA assumes no liability for any losses arising out of any action or inaction by the Sponsor, its employees, or contractors, or any third party acting on its

behalf. In no event will the FAA be liable for claims for consequential, punitive, special and incidental damages, claims for lost profits, or other indirect damages.

ARTICLE 18. Civil Rights Act

The Sponsor will comply with Title VI of the Civil Rights Act of 1964 relating to nondiscrimination in federally assisted programs.

ARTICLE 19. Protection of Information

The parties agree that they will take appropriate measures to identify and protect proprietary, privileged, or otherwise confidential information that may come into their possession as a result of this Agreement.

ARTICLE 20. Security

In the event that the security office determines that the security requirements under FAA Order 1600.72A applies to work under this Agreement, the FAA is responsible for ensuring that security requirements, including compliance with AMS clause 3.14-2, Contractor Personnel Suitability Requirements are met.

ARTICLE 21. Entire Agreement

This document is the entire Agreement of the parties, who accept the terms of this Agreement as shown by their signatures below. In the event the parties duly execute any amendment to this Agreement, the terms of such amendment will supersede the terms of this Agreement to the extent of any inconsistency. Each party acknowledges participation in the negotiations and drafting of this Agreement and any amendments thereto, and, accordingly that this Agreement will not be construed more stringently against one party than against the other. If this Agreement is not executed by the Sponsor within 120 calendar days after the FAA transmits it to the Sponsor, the terms contained and set forth in this Agreement shall be null and void.

AGREED:

**FEDERAL AVIATION
ADMINISTRATION**

SIGNATURE _____
NAME Bradley K. Logan
TITLE Contracting Officer
DATE _____

**CITY OF FRESNO –
AIRPORT DEPARTMENT**

SIGNATURE _____
NAME Kevin Meikle
TITLE Director of Aviation
DATE _____