

NON-FEDERAL REIMBURSABLE AGREEMENT

BETWEEN

**DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

AND

**CITY OF KILLEEN
SKYLARK FIELD
KILLEEN, TEXAS**

WHEREAS, the Federal Aviation Administration (FAA) can furnish directly or by contract, material, supplies, equipment, and services which the City of Killeen (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;

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

ARTICLE 1. Parties

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

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. This Agreement provides funding for FAA services limited to labor, travel, and expenses required to perform limited technical and/or engineering support, design, and construction services to support the sponsor's Commercial Development project impacting FAA NAS facilities including Automated Weather Observation System, FAA cabling and infrastructure. The scope of this Agreement supports technical consultation, site visits, feasibility assessments, project planning, scope definition, development of cost estimate, review of Sponsor provided design packages, development of FAA design packages, construction/installation oversight, modification, removal, and restoration required to address impacted FAA NAS facilities. No government furnished equipment will be provided under this Agreement. If required, the FAA and the Sponsor will enter into a separate agreement to outline additional work beyond the scope of this Agreement. FAA

support may be affected by government shutdowns, pandemics, natural disasters or other items outside of FAA control. FAA engineer and technician onsite support will be coordinated in advance and scheduled in accordance with FAA travel restrictions. No construction work shall be performed involving FAA facilities, systems, and equipment during FAA maintenance moratorium periods, which will be provided by FAA. Waivers will not be approved during a FAA moratorium. Therefore, this Agreement is titled:

Killeen, Texas (ILE) – Commercial Development project impacting FAA NAS facilities including Automated Weather Observation System at Skylark Field

B. The FAA will perform the following activities:

Engineering:

1. Provide all technical assistance necessary to ensure that the Sponsor's project meets FAA rules, regulations, orders, requirements, and standards.
2. Provide the design layout for new facilities to include footprint for relocated or new equipment, grounding plates, cable trays, lighting fixtures, and power raceways.
3. Provide all FAA standard drawings, specifications, and directives for use by the Sponsor in execution of the project.
4. Meet with the Sponsor as required to coordinate and discuss project planning and engineering.
5. Coordinate with the Sponsor in order to ensure that National Environmental Policy Act (NEPA) documentation for the project incorporates associated FAA actions. Also ensure NEPA documentation meets FAA requirements and approvals.
6. Complete environmental due diligence documentation for FAA F&E facilities that are associated with this project.
7. Develop disposal plan for excessing FAA equipment impacted by Sponsor's project. The specifics of the disposal plan will be included in a future agreement.
8. Ensure modifications to the Frequency Transmitting Authorizations are appropriately processed.
9. Provide engineering as required for FAA Resident Engineer (RE) or installation Technical Onsite Representative (TOR).
10. Perform engineering design reviews of the Sponsor's plans and specifications in support of the Sponsor's construction project that affects FAA systems or equipment.
11. The FAA will require 21 calendar days for review of the 50% and 100% packages [or percentages as agreed between FAA and Sponsor], and 60 calendar days for review of the 90% design plans submission. The Sponsor's design plans and specifications are not final until the FAA has

notified the Sponsor that all of the FAA's comments, suggestions, and/or requirements have been incorporated into the design plans and specifications.

Construction/Installation:

1. Provide technical assistance to the Sponsor to enable the Sponsor to meet applicable FAA rules, regulations, orders, requirements, standards, and specifications during the construction phases of the project.
2. Locate and mark all FAA power and control cables in the area affected by the Sponsor's construction. Any excavation required for cable location confirmation will be executed by the Sponsor with FAA oversight.
3. Provide RE oversight for the Sponsor's project impacting FAA facilities and buried cables, advise Sponsor regarding FAA requirements, and inspect infrastructure being accepted by the FAA. No work will be accepted unless performed under the oversight of the FAA RE. It is the RE's responsibility to protect the FAA's interests during the construction phases of the project which impact the FAA facilities, systems, equipment, and their infrastructure. In furtherance of his/her responsibilities, the FAA RE will:
 - a. Be the FAA's primary point of contact for the Sponsor during the project to ensure that all necessary information is coordinated with the appropriate FAA parties.
 - b. Ensure all reasonable efforts are made to minimize the impact to the FAA operations and existing facilities.
 - c. Notify the Sponsor and FAA personnel about any observed discrepancy and document significant discrepancies between the approved design plans and specifications and the actual work performed.
 - d. Notify the Sponsor of any failure of the work or materials to conform to the contract, the design plans and specifications, drawings, and any delays in the schedule.
 - e. Keep a construction diary and weekly status reports on the FAA facilities, systems, and equipment affected by the project.
 - f. Assist the Sponsor in ensuring compliance with all the FAA rules, regulations, orders, standards, requirements, and agreements.
 - g. Witness key events in the project such as, but not limited to, the placement of rebar and pouring of concrete, the splicing, connecting, and testing of all the FAA field cables, and the exothermic welding of grounding, bonding, and lightning protection connections.
 - h. The presence of the FAA RE does not relieve the Sponsor from complying with the agreed to design, including compliance with all applicable FAA rules, regulations, orders, standards, requirements, and agreements.

The RE does NOT have authority to:

- a. Revoke, alter, or waive any requirement of the design plans and specifications, drawings, or the construction contract let by the Sponsor.
 - b. Act as the contractor's foreman or perform any other duties for the contractor.
 - c. Enter into or take part in any labor dispute between the Sponsor and its construction contractor.
 - d. Participate in, settle, or otherwise decide contractual matters in dispute between the Sponsor and its construction contractor.
4. A TOR will be available as necessary and available per Agency guidelines during installation, tune up, checkout, optimizing, and flight inspection activities of the project to inspect the installation and observe the establishment of FAA facilities per FAA Orders and specifications.
 5. Provide access to impacted FAA facilities.
 6. Execute the following activities for the listed FAA facility and geographic area(s):
 - a. **AWOS**
 - 1) Review Sponsor design (incl. addendums, revisions) for protection around underground infrastructure and cabling.
 - 2) Provide RE oversight/inspection (FAA RE) for all work associated with existing and new FAA infrastructure, including power, control and communication cables.
 - 3) Provide FAA personnel to shut AWOS power off/on as needed, lockout/tagout (LOTO).
 - 4) Provide FAA personnel to terminate control cables at AWOS control panel.
 - 5) Relocate AWOS control panel, wind sensor, and other sensitive equipment.
 - 6) Calibrate sensors.
 - 7) Certify AWOS at new location and return equipment back to service.

C. The Sponsor will perform the following activities:

Engineering:

1. Provide funding sufficient to cover costs associated with the applicable phase of this agreement no later than 30 days prior to commencement or sufficient lead time to support contracting activities, whichever is greater.
2. No work may begin that affects FAA facilities until the design plans and specifications are final.
3. Support Engineering Services availability by not seeking engineering design review support before this Agreement is funded. Should the Sponsor decide to

accelerate the schedule ahead of agreed upon dates, Technical Operations technicians and engineers may not be available to support. Thus, this Agreement would have to be canceled, or amended if Tech Ops staff is available to support an accelerated timeline.

4. Perform all appropriate surveys and engineering design for the Sponsor's project impacting FAA facilities, equipment, and infrastructure.
5. Prepare NEPA documentation for impacted FAA facilities and provide such documentation for FAA review and approval.
6. Develop the plans and specifications for the construction of the Sponsor's project and required space for FAA equipment, with FAA's participation and approval. The Sponsor shall coordinate any interruptions or changes that may have an impact to FAA facilities, systems, and equipment necessitated by the Sponsor's project. Scope of work includes but is not limited to: siting of the facilities; all plot site preparation work (e.g., siting, trenching, grading, filing, foundations, power) in establishing new facilities or relocation of existing facilities, shelters and supporting infrastructure.
7. Provide the FAA copies of the proposed grading plan showing the contours and site- grading profile information and all critical areas for navigation, surveillance and weather systems, such as ILS signal-forming areas, for use during facility siting evaluation. Once facilities have been sighted in accordance FAA siting criteria, specifications, the sponsor will provide finished grading plans (including the latitude/longitude coordinates of centerline points and elevations to within 3 inches of final grade) 6 months prior to the expected return to service of final locations.
8. Provide FAA an initial engineering package (50% or greater) no later than 180 prior to construction. Provide an intermediate engineering package (90% or greater) no later than 150 prior to construction that has resolved all of the comments and issues identified in the 50% review. Provide a final engineering package (100%) no later than 90 prior to construction that has resolved all of the comments and issues identified in the 90% review. The Sponsor's design plans and specifications are not final until the FAA has notified the Sponsor that all of the FAA's comments, suggestions, and/or requirements have been incorporated into the design plans and specifications. No work may begin that affects FAA facilities until the design plans and specifications have received final approval from the FAA.
9. Provide funding for the relocation of AWOS and any mandatory upgrades or modifications to any FAA facility impacted by the Sponsor's project. An example of a required modification is safety-related improvements when a facility is "grandfathered" (i.e., allowed to operate under the original design but required to be compliant with current standards).
10. Coordinate the Sponsor's schedule and construction sequencing plan with the FAA FTW Surveillance and Weather Engineering Center before finalizing the plan to ensure that the Sponsor and FAA are in agreement on the critical path, schedule, and milestones. This should be done during the project design phase, before construction contract award. In addition, provide a copy of the

Sponsor's schedule within 30 days of the effective date of this Agreement, and updated monthly (or as soon as changes occur), including the following tasks:

- a. Construction bid
 - b. Construction award
 - c. Construction start
 - d. Construction complete
 - e. Overall construction sequencing schedule, to include FAA facilities
 - f. Dates when FAA is assume ownership for work on buried infrastructure
11. Provide to the FAA in hard-copy format four (4) sets of 11" x 17", (½ size), and four (4) full American National Standards Institute (ANSI) size "D" and one (1) electronic copy using AutoCAD of the complete and finalized Plans and Specifications for the FAA's coordination and review at the agreed-upon design phases. Within 21 working days of receipt of the FAA's comments, or within such other period as the parties may agree, the Sponsor will provide to the FAA below Engineering Center(s), a written response to each of the FAA's comments, suggestions, and requirements. The 100% Plans and Specifications are not final until the Article 4. Technical Engineering Center POC, has notified the Sponsor that all of the FAA's comments, suggestions, and requirements have been incorporated into the Plans and Specifications.
12. Provide to the FAA final project plans and specifications that incorporates the FAA's comments from the 100% engineering review no later than 21 days after FAA approval of the 100% drawings. The complete/finalized project drawings and plans and specifications shall be sent to the Engineering Services address listed in this section.
13. Complete the contract, construction bid, and award process for the construction phase of the project using approved FAA plans and specifications for FAA impacted facilities. The project's scope of work will include but not be limited to all plot site preparation work (e.g., trenching, grading, filling, foundations, demolition) and the installation of all necessary equipment and associated infrastructure. Sponsor will not bid the portion of work that includes the FAA equipment and cabling until the FAA has agreed that all of the drawings and specifications are final.
14. No construction associated with this project that affect FAA facilities or equipment may begin prior to receipt of the foregoing FAA design approval. Furthermore, the Sponsor shall advise the FAA immediately of any proposed changes to the "approved" design plans and specifications before and during the projects construction. Before starting any construction, provide four (4) full size sets of the construction package to FAA Engineering Services:

FAA FTW Surveillance and Weather Engineering Center AJW-2C11E
ATTN: Sheryl Pritchard
10101 Hillwood Pkwy

Fort Worth, TX 76177-1524
Phone: (817) 222-4598
Email: sheryl.pritchard@faa.gov

15. Provide any information on hazardous materials or other environmental conditions that may impact the FAA relocated facilities. This information includes, but is not limited to, previous and current studies/reports conducted on known or suspected areas of environmental contamination located on or adjacent to airport property. The Sponsor agrees to remediate, at its sole cost, all hazardous substance contamination found to impact the proposed FAA facility sites prior to construction and modification to the land rights MOA. In the event that contaminants are discovered on future FAA equipment areas during the course of the FAA's environmental due diligence documentation process, the FAA will require that those areas be remediated. Should this occur, the FAA would coordinate further details with the Sponsor.
16. Submit FAA Form 6000-26 Airport Sponsor Strategic Event Submission Form (Outage Request 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 at <https://oeaaa.faa.gov> under the Forms section on the left pane. This form may also be used to notify the FAA of any changes to the project schedule.
17. Provide a copy of the submitted FAA Form 6000-26 to the Article 4. Technical POC(s).
18. Sponsor shall work with the FAA Airports Region/District Office and submit Non-Rulemaking Airport (NRA) or Non-Rulemaking (NR) airspace cases for temporary and permanent locations of all buildings and equipment to be placed on the airfield as well as required Airspace cases showing information regarding construction vehicles and equipment during each phase of the project to include all trenching operation locations, truck routes, contractor staging areas, cranes, etc. Sponsor shall respond to all NR/NRA case reviewer questions and comply with all reviewer comments. A "determination letter" must be received and reviewed by the FAA ADO before any construction can begin. Airspace cases can be submitted online via <https://oeaaa.faa.gov>.

Construction/Installation:

1. Provide funding for all activities outlined in this Agreement;
2. Support Engineering Services availability by not seeking Construction/Installation support before this Agreement is funded. Should the Sponsor decide to accelerate the schedule ahead of agreed upon dates, Technical Operations technicians and engineers may not be available to support. Thus, this Agreement would have to be canceled, or amended if Tech Ops staff is available to support an accelerated timeline.
3. Perform the following scope for FAA impacted equipment as listed below:

a. AWOS

- 1) Provide new power, control, and communications cables.
 - 2) Construct new foundation, duct banks, structures, power grounding, counterpoise, equipment racks, true north benchmark, crushed stone maintenance area and access road/driveway per rack per drawings and FAA standards and specifications.
 - 3) Relocate wind tower pole and all hardware to new location and install all components.
 - 4) Provide all testing required by FAA standards and specifications for power cables and grounding.
 - 5) Coordinate all work impacting FAA underground cables with FAA R.E.
 - 6) Provide Professional Land Surveyed (PLS) Coordinates and Elevations. (Includes wind sensor pole foundation, True North benchmark, for wind sensor alignment, prior to equipment relocation. Confirm foundation location and benchmark requirements with FAA Meteorologist for AWOS.
 - 7) Provide PLS report to FAA project engineer, as soon as possible.
4. Provide the following detailed schedules:
- a. Construction – The sponsor will provide a detailed schedule of all activities involving FAA impacts no later than 60 calendar days prior to commencing construction. The activities will be delineated by location and phases of construction. Construction requiring FAA oversight shall be phased in such a manner that there are no gaps, which would require multiple return trips. If such gaps are necessary, the FAA reserves the right to renegotiate the agreement.
 - b. Work Schedule – The sponsor will provide a detailed schedule that includes the number of crews, their location and the number of shifts that will be utilized no later than 60 calendar days prior to construction. Update schedule bi-weekly or as soon as changes occur.
5. Facilitate, document, and mitigate issues identified by the FAA in a timely manner in an effort to align with scheduling of FAA or its contracted onsite presence.
6. Verify marked FAA power and control cables by hand digging or hydro excavation at multiple locations in the construction zone to establish the depth and routing of FAA cables. Replace FAA power and control cables for FAA facilities, systems, and equipment impacted by the project activities in accordance with applicable FAA rules, regulations, orders, requirements, and standards.
7. In the case of a cut cable, the sponsor will replace the damaged cable between termination points. The FAA will participate in a joint inspection of the repaired cable in each hand-hole/manhole for proper racking and tags, as well as grounding and terminations.
8. Provide copies of all critical shop drawings, as required.

9. Provide all appropriate documentation on make/models numbers and manuals on all systems installed as required.
10. Notify and coordinate with the FAA all requests to shut down any FAA navigational facilities, systems, or equipment no-less-than 45 days prior to the start of construction. A construction schedule must accompany any request for the shutdown of any FAA navigational facility, system, or equipment. There may be times when a request for shutdown of a facility will not be granted due to air traffic operations. A request to shut down a specific FAA navigational facility, system, or equipment is not automatically associated with the shutdown of any other runway, threshold displacement, or pavement or grading work.

Note: No construction work shall be performed during FAA maintenance moratorium periods, which will be provided by FAA.

11. Notify the Article 4 Technical POC(s) at least 60 calendar days in advance of when FAA construction oversight services are required. An RE will be required when any construction associated with or on FAA facilities, systems, or equipment or the infrastructure associated with the foregoing takes place. The presence or absence of an FAA RE does not relieve the Sponsor or its contractor from any requirement contained in this Agreement, nor is the RE authorized to change any term or condition of the Agreement without the FAA Contracting Officer's written authorization.
No work will be accepted unless performed under the oversight of the FAA RE.
12. For any items corrected by the Sponsor's contractor, the Sponsor will be responsible for payment to the contractor.
13. For any items completed by the FAA, the Sponsor will pay the FAA in advance.
14. Provide the FAA unencumbered access to all site areas impacting FAA facilities.
15. Per FAA Advisory Circular 150/5370-12B, the sponsor must provide and maintain competent technical supervision at the construction site throughout the project to ensure the work conforms to the plans, specifications, and schedules approved by the FAA for the project. Refer to AIP grant Assurance No. 17, *Construction Inspection and Approval*. The sponsor must provide adequate construction quality assurance inspection for all stages of work. This includes adequate documentation of the quality assurance results and reporting on the contractor's work progress. All work is subject to FAA inspection at all places and at all reasonable times before acceptance.
16. Ensure that no other activities or projects at the Airport, scheduled or otherwise, interfere with the FAA's acceptance testing or other scheduled activities.
17. Participate in any and all Contractor Acceptance Inspection (CAI) and Joint Acceptance Inspections (JAI) of all FAA impacted facilities at the end of construction for the purpose of identifying any deficiencies or corrections

required, otherwise noted as exceptions. The FAA will conduct a JAI prior to the commissioning and return-to-service of any FAA system. Exceptions noted will be remedied by the sponsor no later than 60 calendar days after the CAI/JAI. If exceptions are not corrected within 60 calendar days of the CAI/JAI, the FAA will clear the remaining exceptions and charge the cost to the sponsor through the reimbursable agreement. All exceptions must be cleared or otherwise resolved before the agreement can be closed out.

18. Provide to the FAA at the time of the CAI, all warranty information and documentation for all FAA facilities, systems, and infrastructure on work done by the Sponsor's contractor, including material and equipment provided, and cable and grounding/ lightning protection system testing.
19. Establish or modify electrical service for any FAA facilities, equipment and systems incorporated in this project and pay for any one- time costs incurred. Also, the Sponsor shall pay any recurring utility charges until the project is completed and accepted by the FAA. The Sponsor must notify the FAA at the end of the project and provide the following essential information, so that FAA can initiate the transfer of the electrical service account:
 - a. Name, address, and phone number of local electrical service supplier.
 - b. Service address, meter number, and account number.
 - c. Any related information such as service type, estimated energy consumption, and copies of monthly billing charges.
20. Provide the FAA three (3) sets of ANSI size "D" of "As-Built" drawings of the construction phase in hard copy format and one set in electronic file, using AutoCAD format. The electronic file shall include all the accompanying library files needed to generate a complete set of drawings. If the Sponsor does not provide the "As-Built" drawings within 60 days of completion of the project, as required by this Agreement, the FAA will complete the "As-Built" drawings and bill the Sponsor. The As-Built drawings must show what was actually built, not just the proposed construction.

- D. This agreement is in whole or in part funded with funding from an AIP grant [] Yes [x] No. If Yes, the grant date is: N/A and the grant number is: N/A. 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 Central Service Area, Planning and Requirements Group will provide administrative oversight of this Agreement. Moni Jacob is the Lead Planner and liaison with the Sponsor and can be reached at 817-222-4413 or via email at moni.jacob@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 Central Service Area, Surveillance and Weather Engineering Center will perform the scope of work included in this Agreement. Sheryl Pritchard is the Manager and liaison with the Sponsor and can be reached at (817) 222-4598 or via email at sheryl.pritchard@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. The execution, amendment, and administration of this Agreement must be authorized and accomplished by the FAA's Contracting Officer, Bradley K. Logan who can be reached at 817-222-4395 or via email at brad.logan@faa.gov.

B. Sponsor:

City of Killeen
Mike Wilson
8101 Clear Creek Road
Killeen, Texas 76549
254-501-6100
Mwilson@killeentexas.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

- A. To the extent that the Sponsor provides any material associated with the Project, and to the extent that performance of the requirements of this Project results in the creation of assets constructed, emplaced, or installed by the Sponsor, all such material (buildings, equipment, systems, components, cable enclosures, etc.) and assets will be transferred to and become the property of the FAA upon project completion. For purposes of this Article 6, "project completion" means that FAA has inspected the specific equipment or construction, and has accepted it as substantially complete and ready for use. The creation of an additional agreement will not be required, unless such other agreement is required by the laws of the state in which the subject property is located. The Sponsor and FAA acknowledge by execution of this agreement the

FAA will accept the fundamental responsibilities of ownership by assuming all operations and maintenance requirements for all property transferred to the FAA. The transfer of asset(s) will occur on the date the asset(s) is placed in service. It has been determined the subject transfer(s) to FAA is in the best interest of both the Sponsor and FAA.

- B. In order to ensure that the assets and materials subject to this Article remain fully accounted-for and operational, the Sponsor will provide the FAA any additional documents and publications that will enhance the FAA's ability to manage, maintain and track the assets being transferred. Examples may include, but are not limited to, operator manuals, maintenance publications, warranties, inspection reports, etc. These documents will be considered required hand-off items upon Project completion.

ARTICLE 7. Estimated Costs

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

DESCRIPTION OF REIMBURSABLE ITEM	ESTIMATED COST
Labor	
Weather Engineering Support	\$99,791.64
Environmental Engineering Support	\$3,745.80
Labor Subtotal	\$103,537.44
Labor Overhead	\$20,583.24
Total Labor	\$124,120.68
Non-Labor	
Weather Engineering Travel	\$13,319.00
Environmental Engineering Travel	\$833.00
Drafting	\$3,500.00
Supplies	\$2,000.00
Non-Labor Subtotal	\$19,652.00
Non-Labor Overhead	\$1,572.16
Total Non-Labor	\$21,224.16
TOTAL ESTIMATED COST	\$145,344.84

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 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 Reimbursable Receipts Team 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 Reimbursable Receipts team is identified by the FAA as the billing office for this Agreement. The preferred method of payment for this agreement is via Pay.Gov. The sponsor can use a check or credit card to provide funding in this manner and receipt-processing time is typically within 3 working days. Alternatively, the sponsor can mail the payment to the address shown below. When submitting funding by mail, the Sponsor must include a copy of the executed Agreement and the full advance payment. All payments mailed to the FAA must include the Agreement number, Agreement name, Sponsor name, and project location. Payments submitted by mail are subject to receipt-processing delay of up to 10 working days.

FAA payment remittance address using USPS or overnight method is:

Federal Aviation Administration
Reimbursable Receipts Team
800 Independence Ave S.W.
Attn: Rm 612A
Washington D.C. 20591
Telephone: (202) 267-1307

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

City of Killeen
Attn: Mike Wilson
8101 Clear Creek Road
Killeen, Texas 76549
254-501-6100
MWilson@killeentexas.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 Reimbursable Receipts Team 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 one or more of the following authorities: 49 U.S.C. § 106(l), 31 U.S. Code 6505 Intergovernmental Cooperation Act. Under these authorities, the Administrator of the FAA is authorized to enter into and perform such contracts, leases, cooperative agreements and other transactions as necessary to carry out the functions of the Administrator and the Administration on such terms and conditions as the Administrator considers 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 3.14.2.1, 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. Additionally, the FAA expects this agreement to be funded within 120 days of execution, if funding is not received by that date; the FAA may exercise the right to renegotiate estimated costs.

AGREED:

**FEDERAL AVIATION
ADMINISTRATION**

CITY OF KILLEEN

SIGNATURE _____
NAME _____
TITLE Contracting Officer
DATE _____

SIGNATURE _____
NAME Kent Cagle 
TITLE City Manager
DATE _____