



# Office of the City Clerk

City Hall  
121 N. LaSalle St.  
Room 107  
Chicago, IL 60602  
www.chicityclerk.com

## Legislation Text

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**File #:** F2013-49, **Version:** 1

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### Chicago Department of Aviation

CITY OF CHICAGO

July 23, 2013

The Honorable Susana A. Mendoza Office of the City Clerk 121 North LaSalle Street, Room 107 Chicago, Illinois 60602  
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O'Hare Modernization Program  
Agreement with Federal Aviation Administration  
Ref: WBS OH.6135.500.30.551.B.l.cc OMP-CL-OTH-0019

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Dear Ms. Mendoza:

Transmitted herewith is a copy of the following document:

- AJW-FN-CSA-13-C130, Establishment of Remote Transmitter/Receiver Site U (RTR-U), Special Purpose Area (SPA) and Hazmat Buildings at O'Hare International Airport, Chicago, Illinois

This agreement was executed by the First Deputy Director of the Department of Aviation/O'Hare Modernization Program and is being forwarded to you pursuant to applicable ordinances. Please put this document on file in your office and make it available to members of the public who may wish to review it in accordance with your customary practices.

Jonathan Leach General Counsel, CDA

Originated by: Sally Hettinger, PMO

Enclosures:

1. AJW-FN-CSA-13-C130, Establishment of Remote Transmitter/Receiver Site U (RTR-U), Special Purpose Area (SPA) and Hazmat Buildings at O'Hare International Airport, Chicago, Illinois, (17 pages), executed 5/1/2013
2. Attachment A - Sponsor Cost Form (1 page)

Cc: Document Control

10510 WEST ZEMKE ROAD, P.O. BOX 66142, CHICAGO, ILLINOIS 60666

**Agreement Number AJW-FN-CSA-13  
-C130**

**NON-FEDERAL REIMBURSABLE AGREEMENT**

**BETWEEN**

**DEPARTMENT OF TRANSPORTATION FEDERAL  
AVIATION ADMINISTRATION**

**AND**

**CITY OF CHICAGO DEPARTMENT OF AVIATION CHICAGO  
O'HARE INTERNATIONAL AIRPORT CHICAGO, ILLNOIS**

WHEREAS, the Federal Aviation Administration (FAA) can furnish directly or by contract, material, supplies, equipment, and services which the City of Chicago Department of Aviation (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(1)(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 City of Chicago Department of Aviation. ARTICLE 2:**

**Type of Agreement**

This Agreement is an "other transaction" authorized under 49 U.S.C. § 106(1)(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 establish the Remote Transmitter/Receiver Site U (RTR-U), the FAA Special Purpose Area (SPA) and the FAA Hazmat Buildings at O'Hare International Airport. Due to the modernization of O'Hare, existing FAA RTR communication facilities will need to be removed from service and re-established at new RTR locations on the airport

Control (ATC) on the new runways, taxiways, approaches and departures. This Agreement focuses on construction of RTR-U and is planned during the completion phase of the central portion of the airfield to meet the operational ATC requirements associated with the south airfield airport expansion activities. RTR-U is the final RTR to be constructed.

RTR-U will house both new frequencies for Rwy 10R-28L and existing frequencies transitioning from RTR-C and RTR-D. All services connecting to existing fiber nodes at RTR-C and RTR-D must be transitioned to single mode fiber prior to decommissioning and demolition of those RTR facilities. Demolition costs for RTR-C and RTR-D are not included in this Reimbursable Agreement. The Sponsor will cover the cost of demolition through Sponsor's construction activities once the FAA has completed the EDDA and termination of the lease. This Agreement provides funding for the FAA to establish these services. Therefore, this Agreement is titled:

**"Establishment of Remote Transmitter/Receiver Site U (RTR-U), Special Purpose Area (SPA) and Hazmat Buildings at O'Hare International Airport."**

B. The FAA will perform the following activities:

1. Funding Responsibilities:

- a. Remediation of any hazardous substances found to be caused by the FAA occupation of the sites to be decommissioned will be governed by B.4.c.

2. Engineering Responsibilities

- a. Engineer the establishment and relocation of frequencies to the new RTR-U.
- b. Provide sponsor specifications for 50 kW engine generator to be provided as part of the RTR facilities.
- c. Provide sponsor RF conduit sizes, quantities and sizes of cabling, tower heights, and any other site specific requirements.

3. Construction and Installation Responsibilities:

**RTR-U and SPA/Hazmat**

- a. Purchase a 50 kW engine generator for RTR-U and provide as government furnished material to City Contractor for installation.
- b. Purchase obstruction lights for the RTR towers and provide as government furnished material to the City Contractor for installation.
- c. Provide Resident Engineering (RE) services for the construction activities during the establishment of the foundations, buildings, antenna towers, cabling, junction boxes, lightning protection, bonding and grounding, fiber

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connectivity and termination, E/G, interior power panels, breakers, lights, HVAC, cable ladder, etc..

- d. Install antennas, racks, and electronic equipment. Connect to Fiber Optics Transmission System provided under separate reimbursable agreement.
- e. Perform antenna, equipment and system tune-up and alignment checks.
- f. Collect technical performance data and complete Joint Acceptance Inspection (JAI) with the FAA System Support Center (SSC).
- g. Frequency checks all appropriate frequencies to ensure coverage is acceptable from new RTR-U location.
- h. Support cutover of services.

**ORD ATCT**

- a. Complete integration and testing of new frequencies into the ORD ATCT voice switch.
- b. Support system alignment checks and air checks of the frequencies.
- c. Support cutover of services.

**C90 TRACON**

- a. Complete integration and testing of new frequencies into the ORD ATCT voice switch and at the extended positions at the C90 TRACON.
- b. Support system alignment checks and air checks of the frequencies.
- c. Support cutover of services.

**4. Environmental Responsibilities:**

- a. Review and accept Environmental Due Diligence Audit (EDDA) documentation for FAA F&E facilities with real property transaction(s) that are associated with this project.
- b. Coordinate with the Airport Sponsor in order to ensure that National Environmental Policy Act (NEPA) documentation for the project incorporates associated FAA F&E actions. Also ensure NEPA documentation meets FAA requirements and approvals.
- c. Provide an Environmental Due Diligence Audit (EDDA) documentation prior to lease termination, documenting any hazardous material or petroleum product contamination that may have been caused by FAA activities on the existing RTR Facilities lease sites. A Phase II EDDA will be conducted if the FAA suspects from the Phase 1 EDDA that activities at the site may have caused soil or groundwater contamination.
- d. Complete a Hazardous Materials Survey (HMS) of the existing RTR lease sites during the Phase I EDDA site reconnaissance. Verbiage will be included in the report to ensure the sponsor is notified of all building

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materials, equipment, and products associated with the current RTR facilities lease sites that contain hazardous materials.

- e. The FAA agrees to remediate, at its sole cost, all hazardous substance . contamination on the leased premises that.is found to have occurred as a direct result of the installation, operation and/or maintenance of the RTRs.

5. Property Lease Responsibilities:

- a. Submit request to Sponsor to add the new RTR and SPA/Hazmat facilities to the master lease.

6. Property Transfer Responsibilities:

- a. Conduct a mutual or joint inspection of the facilities with the sponsor and prepare a checklist of any items that are not acceptable to the FAA.
- b. Accept transfer of ownership of new RTR and SPA/Hazmat facilities.

7. Other Responsibilities:

- a. Provide FAA design standards and specifications to the Sponsor's engineering firm for inclusion into their future bid package.
- b. Provide a Resident Engineer (RE) for the duration of the RTR and SPA/Hazmat project to oversee construction and demolition and ensure FAA standards and codes are met.

C. The Sponsor will perform the following activities:

1. Funding Responsibilities:

- a. Fund the engineering, drafting, materiel, construction, installation, telecommunication, air check, and any environmental studies and/or remediation necessary to accommodate the completion of RTR-U and associated activities with control facilities as well as the SPA and Hazmat site.
- b. Complete hazardous material remediation as identified in section 4d below and Article VIII (A) and (B).
- c. Provide funding to Cover the cost of FAA resident engineer (RE) services for the duration of this project. Provide the FAA RE the opportunity to inspect foundations, cad-welds, and cable routes.

2. Engineering Design Responsibilities

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- a. Provide engineering plans and drawings for RTR designs, specifications and schedules at the 30%, 60%, 90%, Issued for Construction, Bulletins, and Addendums for FAA review and input.
- b. Provide electronic copies of engineering drawings requested by the FAA during the review process in an FAA acceptable format to allow adequate feedback, redlining, and interior placement of FAA equipment within facilities.
- c. Ensure that all airspace feasibilities studies on final locations are provided to the FAA for review and comment in a timely fashion.
- d. Ensure compliance and consistency with FAA orders, standards and testing requirements.

**3. Construction and Installation Responsibilities:**

- a. Provide a schedule within 30 days of the effective date of this Agreement, updated as changes occur with, at a minimum, the following tasks:
  - i. Design start
  - ii. Design complete
  - iii. Construction bid
  - iv. Construction award
  - v. Construction start
  - vi. Construction complete
  - vii. Overall Construction sequencing schedule
- b. Construct access roads, foundations, buildings, foundations, antenna towers, cabling, junction boxes, lightning protection, bonding and grounding, fiber connectivity and termination, engine generator, external tank, interior power panels, breakers, lights, HVAC, cable ladder, etc., as required by the FAA!
- c. Ensure its Contractor maintains an adequate inspection system and perform such inspections to ensure the work performed under the contract conforms to requirements in this Reimbursable Agreement. The Sponsor's Contractors shall maintain complete inspection records and make them available to the FAA. All work is subject to FAA inspection at all places and at all reasonable times before acceptance.
- d. Submit the 7460 (airspace study) for RTR-U and SPA/Hazmat establishments.
- e. Construct electrical utility meter support stand and establish electrical service and fiber termination. All electrical installations will follow standard FAA-C-1217f and FAA Standard 019e.

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- f. Establish or modify electrical service for any FAA facilities, equipment and/or 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 essential information listed below, so that FAA can initiate the transfer of the electrical service account. The information to be provided to the FAA is as follows:
  - i. Name, address, and phone number of local electrical service supplier;
  - ii. Service address, meter number, and /or account number; and
  - iii. Related information (e.g. service type, estimated energy consumption, copy of monthly billing charges, etc.)
- g. Ensure building occupancy dates and provide unencumbered access to the RTR-U and SPA/Hazmat buildings a minimum of one year prior to the opening date of Runway 10R/28L.
- h. Provide copies of all critical shop drawings, as required.
- i. Provide all appropriate documentation on make/models numbers and manuals on all systems installed, as required.
- j. Provide photographs, paper or digital, of construction items as requested by the FAA.
- k. During the course of construction, provide progress reports to the FAA. These reports shall be emailed on a weekly basis and include that week's progress, photos of work accomplished, and activities planned for the next week.
- l. Participate in a mutual or joint inspection of the facility and prepare a plan for the correction of any items that are identified as not acceptable by the FAA. If the Sponsor's contractor will correct these items, the sponsor will be responsible for payment to their contractor(s). If the FAA completes these corrections, the FAA will be reimbursed by the Sponsor.
- m. Create and provide to FAA the drawings and specifications for the plants segment of the RTR and SPA/Hazmat Sites. Construction and design shall be in accordance with all FAA drawings, specifications, orders, etc. as well as any national or local laws, codes, ordinances, etc. The Sponsor shall provide the necessary expertise to ensure that the local laws, codes, ordinances, etc. are met and are appropriately covered in the design and construction of the new facilities, except where FAA specifications conflict with local codes and ordinances. In such instances the Sponsor

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will obtain a waiver and complete the design and/or construction to meet FAA specifications.

- n. Sponsor will provide redlined drawings to the FAA Resident Engineer at the time of FAA acceptance. In addition, the Sponsor will provide the FAA three bound (3 ring binders) sets of "As-Built" drawings in hard copy format and three electronic copies in .pdf and MicroStation .dgn format. The "As-Built" drawings will be delivered no later than 60 days from project completion. The "As-Built" drawings will include "Metes and Bounds" legal descriptions based on the land surveys performed on each facility, restricted critical area, site access, road, and cable route associated with The Project.
- o. Correct any deficiencies noted by FAA to be unacceptable.
- p. Provide copies of all warranty and closeout documents in binders at CAI.
- q. Provide the copies of the final construction package to the FAA:

FAA Communications Engineering Center Chicago, AJW-C13A  
ATTN: Jane Melle  
FAA Great Lakes Regional Office  
O'Hare Lake Office Center  
2300 East Devon Ave.  
Des Plaines, IL 60018

#### 4. Environmental Responsibilities

- a. Provide any required Environmental Studies necessary to accomplish the work listed in this Memorandum of Agreement (MOA). Provide Environmental Due Diligence Audit (EDDA) documentation for the new facility lease area prior to the commencement of any construction, documenting any hazardous materials or petroleum product contamination. The Sponsor agrees to remediate, at its sole cost, all hazardous substance or petroleum contamination on the premises prior to construction of new RTR or SPA/Hazmat Sites.
- b. Certify the use of environmentally preferable products and services for construction within reasonable costs and availability. "Environmentally preferable" means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. The sponsor also certifies that no asbestos containing materials will be used during the construction of any facility.



- c. Fund all activities and equipment costs related to managing water on the airport due to contamination caused by non-FAA installation. Cost would include but are not limited to: pumping excess water from manholes prior to pulling cable; transporting any water contaminated with hazardous substances such as deicing fluid, jet fuel, oil and grease; and disposing of any contaminated water identified during construction.
- d. Provide City/State/County environmental expertise and cleanup crews in case any hazardous material is encountered during construction or maintenance of the new facility.

#### 5. Property Lease Responsibilities

- a. Sponsor shall provide land rights and enter into no-cost land lease(s) with the FAA for the new or relocated facilities for the term of the Master Lease (expires 9/30/2020). This includes the new site and any access roads, cable routes and/or restricted critical areas. The land rights contained in the lease document will incorporate the legal descriptions and drawings provided by Sponsor. The lease shall identify any known existing releases of hazardous substances or threatened releases of petroleum products to the property. The FAA agrees to remediate, at its sole cost, all hazardous substance contamination on the leased premises that is found to have occurred as a direct result of the installation, operation and/or maintenance of the RTR or SPA/Hazmat Sites. The Sponsor/Lessor also agrees to save and hold the Government harmless for any and all costs, liabilities and/or claims by third parties that arise out of hazardous contamination found on the leased premises, which are not directly attributable to the installation, operation and /or maintenance of the RTR Sites.
- b. The Sponsor agrees to provide the legal description, plot definition and topographical survey, including latitude and longitude, and elevation of the new facility's location, including any required restricted areas and easements for access and utilities as required (including water, power, gas, communications, etc.). The Sponsor shall have all lease and easement agreements fully executed between the Sponsor and the FAA prior to the commencement of any construction under this Agreement.

### ARTICLE 4. Points of Contact

#### A. FAA:

- 1. The Technical Operations Central Services Area will perform the scope of work included in this Agreement. Jane Melle is the FAA Technical Officer and liaison with the Sponsor and can be reached at (847) 294-7593. This liaison is not authorized to make any commitment, or otherwise obligate the FAA, or authorize

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any changes which affect the estimated cost, period of performance, or other terms and conditions

of this Agreement.

2. FAA Contracting Officer: The execution, modification, and administration of this Agreement must be authorized and accomplished by the Contracting Officer, Irene Medina who can be reached at (847) 294-8309.

B. Sponsor:

Ms. Tiffany Green OMP Business Manager  
City Of Chicago O'Hare Modernization Program 10510 W.Zemke Road  
Chicago, IL 60666 Phone: 773-462-7327 FAX: 773-462-8550

## **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 and assets will become the property of the FAA upon project completion. For purposes of this Article 6, "project completion" means that FAA has inspected the equipment or construction, and has accepted it as substantially complete and ready for use. The sponsor shall enter into a transfer agreement with the FAA for conveyance of ownership. The Sponsor and the FAA acknowledge that the FAA has accepted the fundamental responsibilities of ownership by assuming all operation and maintenance requirements for all property transferred to the FAA, and the subject transfer to FAA is in the best interest of both the Sponsor and the FAA.

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The costs incurred in procurement of the real and personal property being transferred, to include both design and construction costs, shall be supported by an Attachment A (Sponsor Cost and Transfer Certification Form) executed by the Sponsor and FAA. Real property descriptions shall include the name of the asset (building, tower, fence, etc), its composition (metal, brick, fiberglass,

etc.) and its dimensions (L x W, Height, Capacity, etc.). Personal property description^ will show the system/component being transferred along with the model number and/or capacity.

- 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:

### Cost Estimate- Special Purpose Area Buildings / Hazmat Site

Item	
FAA LABOR COSTS	
Engineering (WB4020)	\$50,000.00
Environmental (WB4030)	\$6,000.00
Construction (WB4050/WB4060)	\$64,000.00
Labor Sub-Total	\$120,000.00
FAA NON-LABOR COSTS	
Other Drafting Costs (WB4020)	\$2,500.00
Other Engineering Costs (WB4030)	\$5,000.00
Electrical Service (WB4050)	\$10,000.00
Construction Materials (WB4050)	\$10,000.00
Administrative Overhead (6%)	\$1,650.00
Non-Labor Sub-Total	\$29,150.00
	<b>\$149,150.00</b>

### Cost Estimate- Remote Transmitter/Receiver Site U (RTR-U)

Item	
FAA LABOR COSTS	
Engineering (WB4020)	\$125,000.00
Environmental (WB4030)	\$6,000.00
Construction/Installation (WB4050/WB4060)	\$277,000.00
Labor Sub-Total	\$408,000.00
FAA NON-LABOR COSTS	
Other Engineering Costs (WB4030/WB4020)	\$7,500.00

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Construction/Installation (WB4020/WB4050/WB4060) **\$130,300.00**

Equipment and Materials (WB40507WB4060)	\$162,544.00
Decommissioning RTR-C & RTR-D (WB4020/WB4030/WB4050/WB4060)	\$10,000.00
Electrical Service (WB40 50)	\$10,000.00
<b>Administrative Overhead (6%)</b>	<b>\$19,220.64</b>
<b>Non-Labor Sub-Total</b>	<b>\$339,564.64</b>

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Total Agreement Cost-RTR-U, SPA and Hazmat Establishment \: .  
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-V \$896,714.64'; \tfv

#### ARTICLE 8. Period of Agreement and Effective Date

This Agreement supersedes and nullifies any previous agreements between the parties on the subject matter. 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. Under no circumstances will this Agreement extend 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 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.
- 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 the full advance payment to the Accounting Division shown below. All payments must include the Agreement number, Agreement name, Sponsor name, and project location.

The mailing address is:

FAA Mike Monroney Aeronautical Center Attn: AMZ-330,  
Reimbursable Project Team P.O. Box 25082 Oklahoma City, OK  
73125

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The overnight mailing address is:

FAA Mike Monroney Aeronautical Center Attn: AMZ-330,  
Reimbursable Project Team 6500 S. MacArthur Blvd. Oklahoma City,  
OK 73169 Telephone: 405-954-9314

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

Ms. Tiffany Green OMP Business Manager  
City Of Chicago O'Hare Modernization Program 10510 W. Zemke  
Road Chicago, IL 60666 Phone: 773-462-7327 FAX: 773-462-8550

- 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 modified 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 a modification to the Agreement which includes the FAA's additional costs. The Sponsor agrees to prepay the entire estimated cost of the modification. The Sponsor will send a copy of the executed modification to the Agreement to the FAA-Mike Monroney Aeronautical Center with the additional advance payment. Work identified in the modification 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 Modifications**

Changes and/or modifications to this Agreement will be formalized by a written modification that will outline in detail the exact nature of the change. Any modification 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 modification(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 modifying or

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otherwise affecting the terms of the Agreement. Any party to this Agreement may request that it be modified, whereupon the parties will consult to consider such modifications.

## **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(1)(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

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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**

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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 (January 2011) 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 modification to this Agreement, the terms of such

modification 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 modifications 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:

Contracting Officer

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## TRANSMITTAL

To: Peter Polacek, City of Chicago -  
Office of the City Clerk

From: Sally Hettinger, DMJM Aviation Partners, PMO

Date:

7/31/2013

WBS/DCN: OH.6135.110.30.512.B.6.gg OH6135.200.30.525.B.6.gg OH6135.110.30.512.B.6.gg

Trans # PMO-OTH-T-0165

Subject: Runway 10R-28L - Various FAA Executed Agreements for Record

☐ Under Separate Cover Via:

• Information

D Distribution

• For Your:

☐ Review/Comment

S Record

• Approval

☐ Use

The

Following:

D Drawings ☐ Specifications

O Correspondence ☐ Report

Copies

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Description FAA Agreement AJW-FN-CSA-12-C116

Date

FAA Agreement AJW-FN-CSA-13-C130

FAA Agreement AJW-FN-CSA-13-C131

7/23/2013 7/23/2013 7/23/2013

7/23/2013      FAA Agreement AJW-FN-CSA-13-C133

Remarks: Transmitted here with are the referenced original executed FAA agreements in compliance with the O'Hare Delegation Ordinance, please make them available to members of the public who may wish to review them in accordance with your customary practices.

Submitted by: Sally Hettinger