

BILL NO. 2055

SPECIAL ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF CUBA, MISSOURI, ON BEHALF OF SAID CITY, TO ENTER INTO AN AGREEMENT WITH THE DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION TO PROVIDE A COMMISSIONING FLIGHT INSPECTION.**

**WHEREAS**, the Board of Aldermen of the City of Cuba, Missouri (City), has determined that it is in the best interests of the City to enter into an agreement with the Department of Transportation, Federal Aviation Administration to provide a commissioning flight inspection.

**BE IT ORDAINED**, by the Board of Aldermen of the City of Cuba, Missouri, as follows:

**Section 1:** The City of Cuba, Missouri, shall enter into an agreement with the Department of Transportation, Federal Aviation Administration to provide a commissioning flight inspection. A copy of said Agreement is attached hereto as Exhibit "A".

**Section 2:** The Mayor of the City of Cuba, Missouri, is authorized to execute the Agreement on behalf of the City.

**Section 3:** All ordinances or parts of ordinances therefore enacted which are in conflict herewith are hereby repealed.

**Section 4:** This ordinance shall be in full force and effect from and after its passage and approval.

**READ TWO TIMES AND PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF CUBA, MISSOURI, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2022.**

\_\_\_\_\_  
CODY LEATHERS, MAYOR

Attest:

\_\_\_\_\_  
LAINEE GARBO, CITY CLERK

(City Seal)

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
CODY LEATHERS, MAYOR

Attest:

\_\_\_\_\_  
LAINEE GARBO, CITY CLERK

(City Seal)

Approved as to the form.  
WILLIAMS, ROBINSON, RIGLER & BUSCHJOST, P.C.

By: \_\_\_\_\_  
Lance B. Thurman, #51214  
901 North Pine Street, Fourth Floor  
Post Office Box 47  
Rolla, Missouri 65402  
(573) 341-2266

ATTORNEYS FOR THE CITY OF CUBA, MISSOURI

Alderman	Vote on First Reading On _____, 2022	Vote on Second Reading On _____, 2022
Kevin Copling		
Sam Black		
Dave Honea		
Warren Graddy		
Curtis Holt		
Jeff Bouse		

**NON-FEDERAL REIMBURSABLE AGREEMENT**

**BETWEEN**

**DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION**

**AND**

**CITY OF CUBA, MO  
CUBA, MO**

**WHEREAS**, the Federal Aviation Administration (FAA) can furnish directly or by contract, material, supplies, equipment, and services which the **City of Cuba, MO** (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-Flight Program Operations and **City of Cuba, MO**.

**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 provide a commissioning flight inspection of the PAPIs/REILs on Rwy 18/36 (possible renumbering 01/19) at Cuba Municipal Airport (KUBX) Cuba, MO. This Agreement provides funding for the FAA to establish these services. Therefore, this Agreement is titled:

**City of Cuba, MO, Cuba, MO**

- B. The FAA will perform a commissioning flight inspection of the PAPIs/REILs on Rwy 18/36 (possible renumbering 01/19) at Cuba Municipal Airport (KUBX) Cuba, MO.
- C. The Sponsor will perform the following activities:
1. Provide funding as estimated in Article 7.
  2. Upon signature and payment of agreement, contact Randall Peterson at 405-954-1602 or [randall.w.peterson@faa.gov](mailto:randall.w.peterson@faa.gov) once the site is ready for inspection. You may also call the Oklahoma City Service Center if you have any questions at 405-954-9780.
- D. This agreement is in whole or in part funded with funding from an AIP grant [] Yes [] No. If Yes, the grant date is: TBD and the grant number is: TBD. 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, Flight Program Operations, Program Support Group, will provide administrative oversight of this Agreement. Shelley Ochs is the Agreement Coordinator and liaison with the Sponsor and can be reached at 405-954-5757 or via email at [shelley.d.ochs@faa.gov](mailto:shelley.d.ochs@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, Flight Program Operations, Flight Management Group will perform the scope of work included in this Agreement. Henry Frakes is the Manager, Flight Management Group and liaison with the Sponsor and can be reached at 405-954-3955 or via email at [henry.frakes@faa.gov](mailto:henry.frakes@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, Michele Mustin who can be reached at 405-954-7879 or via email at [michele.d.mustin@faa.gov](mailto:michele.d.mustin@faa.gov).

B. Sponsor:

Sponsor: City of Cuba, MO  
 ATTN: Lainie Garbo  
 Address: 202 N. Smith St.  
           Cuba, MO 65453-1134  
 Phone: 573-885-7432  
 E-mail: lgarbo@ci.cuba.mo.us

**ARTICLE 5. Non-Interference with Operations [RESERVED]**

**ARTICLE 6. Property Transfer [RESERVED]**

**ARTICLE 7. Estimated Costs**

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

DESCRIPTION OF REIMBURSABLE ITEM	ESTIMATED COST
<b>LABOR</b>	
NA	\$0
<b>NON-LABOR</b>	
Flight Inspection	\$19,816.50
Non-Labor Overhead (8%)	\$ 1,585.32
Total Non-Labor	\$21,401.82
<b>TOTAL ESTIMATED COST</b>	<b>\$21,401.82</b>

Detailed Estimate:

Flight Inspection Estimated Cost

<i>Lear Rate \$3,603/hr</i>	Type	Hours	Inspections	Estimated Cost
PAPIs/REILs on Rwy 18/36 at KUBX	Commissioning	5.5	1	\$19,816.50
	8% Administrative Overhead			<u>\$ 1,585.32</u>
	Total Estimated Cost			<b>\$21,401.82</b>

B. FAA reserves the right to determine which aircraft will be used for flight inspections. Flight hour rates will be adjusted automatically according to FAA Order 2500.36 (current edition), Application of Flight Hour Rates, or as approved by the Flight Program Executive. The estimate is based on rates in effect at the time this Agreement is signed.

- C. Estimated costs contained herein are for planning purposes only and can vary depending on the actual aircraft used, and actual flight hours expended to reach the facility and to accomplish the inspection. As required by regulation, the final bill submitted to the Sponsor will reflect actual hours and costs to Flight Program Operations.
- D. Sponsor will be notified of any necessary deviations or changes to the instrument flight procedure and agrees to negotiate with the FAA to resolve additional reimbursement issues exceeding 10% of the cost estimate, in accordance with Article 9.
- E. FAA flight inspection aircraft may be delayed from scheduled itineraries for unanticipated reasons such as a National Airspace System priority, weather, or unscheduled aircraft maintenance. FAA is not responsible for any additional cost the Sponsor may incur if an inspection must be rescheduled.

#### **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 D 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 an electronic copy of the Agreement to the FAA Agreement Coordinator for FAA signature. The Sponsor will also 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 Cuba, MO**  
**Lainie Garbo**  
**202 N. Smith St.**  
**Cuba, MO 65453-1134**  
**573-885-7432**  
**lgarbo@ci.cuba.mo.us**

- D. 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 [RESERVED]**

#### **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. Each of 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 [RESERVED]**

**ARTICLE 21. Ensuring Adequate COVID Safety Protocols [RESERVED]**

**ARTICLE 22. 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 CUBA, MO**

SIGNATURE \_\_\_\_\_  
NAME Michele Mustin  
TITLE Contracting Officer  
DATE \_\_\_\_\_

SIGNATURE \_\_\_\_\_  
NAME Cody Leathers  
TITLE Mayor  
DATE \_\_\_\_\_