

# AGENDA



## Recommendation for Council Action

Austin City Council

Item ID

36630

Agenda Number

13.

Meeting Date:

11/20/2014

Department:

Aviation

### Subject

Authorize negotiation and execution of a reimbursable agreement with the Federal Aviation Administration (FAA) for construction phase inspection services for the FAA Duct Bank Relocation Project in the amount of \$144,223.14, plus a contingency of \$14,422.31, for a total contract amount not to exceed \$158,645.45.

### Amount and Source of Funding

Funding is available in the Fiscal Year 2014-2015 Capital Budget of the Aviation Department.

### Fiscal Note

A fiscal note is attached.

**Purchasing Language:**

**Prior Council Action:**

June 6, 2013 – Council approved an amendment to a lease and hangar facility development agreement with Ascend AUS, LLC consistent with a mediated settlement agreement dated July 17, 2012.

**For More Information:**

Shane Harbinson, Assistant Director, 512-530-6652

**Boards and Commission Action:**

September 9, 2014 – Approved by the Austin Airport Advisory Commission on a vote of 5-0-2 with Commissioners Johnson and Farris absent.

**MBE / WBE:**

**Related Items:**

### Additional Backup Information

On August 21, 2008, City Council approved the execution of a lease and hangar facility development agreement with Ascend AUS, LLC (Ascend) to design, construct, and operate a new general aviation facility at Austin-Bergstrom International Airport (ABIA) providing additional hangar facilities for private jet aircraft. On or about November 24, 2008, Ascend discovered a cable duct bank traversing the leased premises containing Federal Aviation Administration (FAA) radar, communication, and navigational signal cables critical to the safe and efficient operation of ABIA. Since the discovery, Ascend and the Department of Aviation have spent a considerable amount of time with the FAA to determine whether Ascend could build above the duct bank or whether the duct bank could be relocated. Due to the complexity of the matter, the potential cost, and involvement of the FAA, Ascend and the Department of Aviation could not reach a resolution.

As a result, the parties went to mediation on July 17, 2012 and entered into a Mediated Settlement Agreement. Under such agreement, the parties allowed time for the Department of Aviation to determine the feasibility of relocating the FAA signal cable. If such relocation was determined to be feasible, then the parties agreed to revise the lease agreement to set out the timeline for the design and construction of the FAA cable relocation, refund the ground rent

Ascend had paid to date, and abate ground rent until relocation of the FAA signal cable is completed.

In accordance with the ABIA FAA Ductbank Relocation Feasibility Study, prepared by Aviation's consultant RS&H and dated October 9, 2012 and amended on October 24, 2012, the Department of Aviation determined that it was feasible to relocate the FAA signal cable from the leased premises to other land at ABIA not part of the tenant's leasehold. RS&H was issued a notice to proceed to begin design phase services for the relocation of the duct bank.

A meeting with FAA staff was then held to discuss the process of relocating their cable duct bank. FAA staff advised of their requirement to review all design submittals related to the relocation, to provide full time inspection oversight services during construction, and the need for reimbursable agreements to fund these services. On April 3, 2013, the FAA agreed to provide review of the design package of the signal cable relocation to ensure conformance to FAA design standards, through a design review reimbursable agreement in the amount of \$8,855.

On June 6, 2013, City Council approved the negotiation and execution of an amendment to the lease and hangar facility development agreement with Ascend to require the Department of Aviation to relocate the FAA signal cable by August 1, 2015, refund the ground rent Ascend had paid to date, and abate rent and other lease terms until relocation of the FAA signal cable is completed.

Design phase services for the relocation of the signal cable are now complete, and solicitation for bids was issued on August 11, 2014, with bid opening scheduled for September 9, 2014.

Accordingly, the Department of Aviation now seeks to enter into a reimbursable agreement with the FAA for their inspection oversight services during the upcoming construction phase of the project. The terms of the agreement stipulate, among other things, the duties and responsibilities of each party and the execution of a reimbursable agreement, payable in advance, in the amount of \$144,422.31.

The FAA will be responsible for the maintenance and operation of the cable duct bank once the relocation of the cable duct bank is complete and operational.