CITY OF FRESNO
City Clerk's Office (Original)

CITY OF FRESNO
INTERDEPARTMENTAL MEMORANDUM OF UNDERSTANDING
REGARDING THE USE OF WELL SITES

Between

AIRPORTS DEPARTMENT

And

DEPARTMENT OF PUBLIC UTILITIES
WATER DIVISION

This **INTERDEPARTMENTAL MEMORANDUM OF UNDERSTANDING** ("Agreement") is entered into this _____day of _____, 2014, by and between the Airports Department, hereinafter referred to as "Airports" and the Department of Public Utilities, Water Division, hereinafter referred to as "DPU," both of which are departments of the City of Fresno, a municipal corporation.

RECITALS

WHEREAS, City of Fresno owns airport enterprise property well sites, that is identified on the Federal Aviation Administration approved Airport Layout Plan and more specifically located at the following addresses: Pump Station 80 (3903 N. Winery Avenue, Fresno, CA); Pump Station 306 (3798 N. Peach Avenue, Fresno, CA); Pump Station 008A (5551 E. Westover Avenue, Fresno, CA); Pump Station 113 (N. Walker Avenue, Fresno, CA); Pump Station 063 (4991 E. McKinley Avenue, Fresno, CA); Pump Station 230A (4820 and 4826 East Shields Ave.) and Pump Station 27A (105 W. Chandler), hereinafter referred to as the "Use Area"; and

WHEREAS, the parties desire that DPU continue using the Use Area for the purpose of operating and maintenance of municipal well sites and for storage of related equipment; and

WHEREAS, the Use Area may be used for non-aeronautical purposes upon terms and conditions consistent with federal regulatory policy requirements including but not limited to the Federal Aviation Administration ("FAA") Grant Assurances attached to this Agreement as Exhibit "B" and incorporated herein; and

WHEREAS, the parties desire that this Agreement shall supersede and terminate all other existing agreements having to do with the Use Areas listed above; and

WHEREAS, FAA policy requires the payment of fair market value rent for the non-Aeronautical use of airport property including the Use Area by DPU; and

WHEREAS, It is not the intent of Airports and DPU to create any new restrictions or new regulations applicable to the City of Fresno by the creation of this Agreement but rather to establish guidelines for how the Use Area is utilized and to establish a rental agreement in compliance with Federal Regulations.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants set forth below, the parties have entered into this Agreement to establish the terms and conditions pursuant to which DPU shall have a non-exclusive, non-transferable use of the Use Area, all as follows:

ARTICLE I
DESCRIPTION OF USE AREA

The Use Area consists of the following locations: Pump Station 80 (3903 N. Winery Avenue, Fresno, CA) 16,329 square feet; Pump Station 306 (3798 N. Peach Avenue, Fresno, CA) 13,357 square feet; Pump Station 008A (5551 E. Westover Avenue, Fresno, CA) 2,398 square feet; Pump Station 113 (N. Walker Avenue, Fresno, CA) 5,901 square feet; Pump Station 063 (4991 E. McKinley Avenue, Fresno, CA) 566 square feet; Pump Station 230A (4820 and 4826 East Shields Ave.) 16,918 square feet and Pump Station 27A (105 W. Chandler)

1,638 square feet, as depicted in Exhibit "A", exhibit is attached hereto and made a part hereof. DPU shall accept the Use Area in an "as is" condition.

ARTICLE II
PERMITTED USES

DPU shall use the Use Area only for the operation and maintenance of municipal water wells in connection with DPU's operational requirement and for no other purpose whatsoever.

ARTICLE III
GENERAL PROVISIONS CONCERNING THE MANNER OF USE

The following general provisions shall be applicable to DPU's use of the Use Area:

1. The Area shall be inspected, environmentally assessed, improved, operated and maintained by DPU and all costs thereof including the preparation of said Use Area and all expenses thereof, and all tools and labor necessary thereof, shall be at the sole cost and expense of DPU.

2. DPU shall have and enjoy the right of ingress to and egress from the Use Area subject only to such reasonable rules and regulations as may be established by Airports. Such right of ingress and egress shall likewise apply to DPU's employees, agents, patrons, invitees, suppliers and authorized persons including the right of transportation of equipment, materials, machinery and other property to and from the Use Area.

3. DPU shall provide at DPU's sole cost and expense, any and all permits, licenses, fees, etc. that may be required of the City of Fresno to conduct its intended operations within the Use Area.

ARTICLE IV
DEVELOPMENT STANDARDS

1. Airports approval is required for any further improvements, such approval not to be unreasonably withheld.

2. Any and all development of the Use Area shall conform to all applicable codes, ordinances, regulations and development standards of the City of Fresno or other authority having competent jurisdiction over such development to the extent they apply to the City of Fresno for the type of development considered. All building, regulatory and other permits and approvals if required shall be obtained and paid for by DPU. Nothing in this section is intended to impose any new or additional requirements or restrictions that would not otherwise exist for the City of Fresno.

3. DPU, at its sole cost agrees to operate and maintain municipal water wells within the Use Areas, per Exhibit "A", which improvement shall be and remain the property, liability and responsibility of DPU at all times during the course of this Agreement.

4. DPU shall provide Airports with as built drawings, maps, and other related data of all such existing and hereafter made improvements.

ARTICLE V
TERM

A. TERM

This Agreement shall be effective retroactively to July 1, 2012 and shall remain in full force and effect, for a base term expiring June 30, 2032. Either party shall have the right, at any time, to terminate this Agreement upon giving advance written notice of not less than sixty (60) days to the other party.

B. OPTION TO EXTEND TERM

Airport hereby grants to DPU an option to extend the term of this Lease for a total period of twenty (20) years from and after the ending date of the term specified in Section A, above, in two ten (10) year options.

1. First Option shall be exercised by DPU delivering to Airport notice, in writing, of DPU's exercising said option which notice shall be delivered no later than April 1, 2032. Upon the receipt of said notice by Airport, the term of this Lease shall then thereby be extended for an additional ten (10) year period and the parties hereto shall be bound by all terms, covenants and conditions hereof during said additional period.

   If DPU fails to notify the Airport of the exercising of the first option, Agreement shall terminate on the date in Section A above.

2. Second Option shall be exercised by DPU delivering to Airport notice, in writing, of DPU's exercising said option which notice shall be delivered no later than April 1, 2042. Upon the receipt of said notice by Airport, the term of this Lease shall then thereby be extended for an additional ten (10) year period and the parties hereto shall be bound by all terms, covenants and conditions hereof during said additional period.

3. Final termination date of this Agreement shall be June 30, 2052, unless terminated earlier in the manner and under the conditions herein provided.

ARTICLE VI
RENT

A. ANNUAL RENT AND DUE DATE

1. Rent shall be paid annually for the period of July 1 through June 30 ("Fiscal Year"). The Fair Market Rent ("FMR") in the amount of $0.423 per square foot per year, covering the period of July 1, 2012 through June 30, 2013 shall be paid by DPU to Airports on or before June 15, 2013. Thereafter, rent will be due on the first day of August, commencing August 1, 2013. Rental adjustments will be made annually as described in Section B of this Article, below.

2. The FMR is based on the rental value of the previous municipal well site lease between the Airports Department and DPU located at 4820 and 4826 East Shields Avenue, Fresno, CA.

B. RENTAL ADJUSTMENTS:

Commencing on the first day of the 3rd Fiscal Year (July 1, 2014), and then annually thereafter on the first day of each successive Fiscal Year throughout the life of this Agreement, the amount of annual rent to be paid to Airports by DPU shall be subject to increase, by an amount equal to the percentage change (increases only) in the U.S. Department of Labor, Bureau of Labor Statistics (USDLBLS) Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers (all items, U.S. city average) from January 1 to December 31 during the last full calendar year prior to the scheduled rental adjustment date. The base year for this agreement shall be 2013.

The amount of all such annual adjustments shall be determined in the manner illustrated within the worksheet entitled "Illustration of Annual Rental Adjustment Computation", which is attached as Exhibit "C" hereto and made a part hereof. Commencing May 1, 2014 and annually thereafter, prior to the end of each fiscal year, Airports shall complete the worksheet described in Exhibit "C" and provide a copy to DPU. This will serve as notice of the rent amount due for the upcoming Fiscal Year.

C. LATE PAYMENT CHARGE

Should any installment of rent or any other charges accruing to Airports under the provisions of this Agreement not be received by Airports within five (5) calendar days after such shall become due, a late payment charge equal to one and one half percent (1.5%) of the overdue amount added thereto and constituting a part thereof shall be imposed by Airports each and every month until the entire delinquent amount is received by Airports.

ARTICLE VII
MAINTENANCE, ALTERATIONS & REPAIR, REMOVAL & DEMOLITION

A. MAINTENANCE:

DPU shall, at all times during the life of this Agreement, at no cost or expense to Airports, keep and maintain its improvements and the Use Area in good order and repair, and in a clean, sanitary, and neat condition. Maintenance of the Use Area includes but is not limited to landscape, including perimeter area, and all fencing surrounding the Use Area.

DPU shall, at all times, keep the Use Area and all fixtures, equipment and personal property in a clean and orderly condition and appearance. DPU shall repair, replace, rebuild and paint all or any part of the improvements within the Use Area which may be damaged or destroyed by acts or omissions of DPU or by those of its officers, employees, guests, invitees or of other persons.

DPU shall take such care of the Use Area and all parts thereof at all times during the term of this Agreement, that at the expiration or termination thereof the premises shall be in as

good condition as at the time of the effective date of this Agreement, except for reasonable wear and tear.

B. ALTERATIONS & REPAIRS:

DPU shall have the right, at its sole cost and expense, to operate and maintain within and on the Use Area any improvements, which may be considered as necessary or useful to its operations; provided, however, any construction, alterations or improvements are subject to Articles III & IV above, and Article X below, and shall be commenced only after plans and specifications therefore have been submitted to and approved in writing by Airports.

DPU shall, at no cost or expense to Airports, make any additions or alterations, operate, maintain, improve and repair all facilities and other improvements as may be required at any time in order to comply with legal and regulatory requirements imposed upon Airports in connection with or for the use of such Use Area or any part thereof and shall otherwise observe and comply with any and all applicable public laws, ordinances, regulations, and orders of competent governmental authority applicable to the City of Fresno for the Use Area.

C. REMOVAL & DEMOLITION:

Unless this Agreement is replaced with a new agreement, at the expiration of the life of this Agreement or any prior termination thereof, DPU agrees to quietly and peacefully surrender possession of the Use Area to Airports in the same condition as it was provided to DPU, as bare land.

D. HOLD HARMLESS / INDEMNIFICATION:

DPU shall hold Airports completely harmless and indemnify, protect and defend Airports and Airports' officials, officers, employees, volunteers and agents against any and all claims, judgments, fines, penalties, forfeitures, damages, demands, liabilities, suits, notices, costs and expenses (including all reasonable costs and expenses for investigation and defense thereof [including, but not limited to attorney fees, court costs and expert fees]), or any one, more or all of these, of any nature whatsoever, arising or allegedly arising, directly or indirectly, out of, as a result of, or incident to, or in any way connected with this Agreement or: (1) DPU's occupancy(ies) and/or use(s) of any part or all of the Use Area ; (2) DPU's exercise of any one, more or all of the rights and privileges herein granted; (3) any breach or default in the performance of any obligation on DPU's part to be performed under the terms of this Agreement; and/or (4) any act(s) or omission(s) on the part of DPU and/or any officer(s), agent(s), employee(s), contractor(s), sub-contractor(s), servant(s), or representative(s) of DPU during the life hereof, except for any claims, judgments, fines, penalties, forfeitures, damages, demands, liabilities, suits, notices, costs and expenses, or any of these, caused solely by the active negligence of Airports or any of its officials, officers, agents, volunteers or employees acting within the scope of their duties for Airports. Airports shall give to DPU reasonable notice of any such claims or actions.

The provisions of this section shall survive the termination of this Agreement.

E. EXEMPTION OF AIRPORT:

DPU hereby specifically warrants, covenants and agrees that Airports shall not be liable for injury to DPU's business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property located in, upon or about the Use Area or elsewhere on Airport under authority hereof, whether belonging to DPU, or DPU's employees, customers, agents, contractors, sub-contractors, tenant, sub-lessee of DPU, or any other person whomsoever. Nor shall Airports be liable for any injury to DPU's employees, agents, contractors, subcontractors, tenants, sub-lessees, customers, or invitees, whether or not said damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the leakage, breakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether or not the said damage or injury results from conditions arising in or on any part or all of the Use Area or in or on any of the improvements/facilities appurtenant thereto located therein or thereon, or from other sources or places, and regardless of whether or not the cause of such damage or injury or the means of repairing the same is inaccessible to DPU. DPU also covenants and agrees that Airports shall not be liable for any damages arising from any act or neglect on the part of any third parties.

ARTICLE VIII
UTILITIES

DPU shall pay all utilities costs associated with its use of the Use Area including, but not limited to, all electricity, natural gas, telephone and any other utility service it may require. DPU agrees that all charges for such services shall be paid prior to delinquency and that Airports shall be protected and held harmless therefrom.

ARTICLE IX
TAXES AND ASSESSMENTS

In addition to the rental provided for herein, should any tax or assessment of any kind become legally authorized to be assessed against the Use Area or any improvements thereon or any interest therein, DPU shall cause it to be paid, at no cost or expense to Airports, when due.

ARTICLE X
RULES AND REGULATIONS

DPU shall observe, obey, and comply with any and all applicable rules, regulations, laws, ordinances, statutes or orders of any governmental and regulatory authority lawfully exercising authority over the City of Fresno, Airport, the Use Area, the ground water/water quality, the public facilities used in connection therewith, or otherwise having authority over DPU's conduct of its activities and operations hereunder.

DPU agrees to abide by the rules; regulations and orders of the FAA or such other successor agency as may hereafter be designated by the Federal Government with respect to aircraft and Airport operations. This includes the requirement to comply with all FAA and Airport safety and security rules, regulations and plans. The DPU shall cause Airports to be fully protected and held harmless against any and all claims, demands, damages, fines or penalties of any nature whatsoever which may be imposed due to any violation caused directly or

indirectly by the act, omission, negligence, abuse or carelessness on the part of DPU, its employees, agents, visitors, suppliers or invitees.

The "Assurances required by the Federal Aviation Administration" including, but not limited to those set forth in Exhibit "B" of this Agreement, are binding contractual obligations between the City of Fresno and the Federal Aviation Administration as a condition of the receipt of federal financial assistance for the airport. DPU shall faithfully comply with each and all of such "Assurances required by the Federal Aviation Administration" as applicable throughout the life of this Agreement.

ARTICLE XI
ASSIGNMENT AND TRANSFER

DPU shall not assign, otherwise transfer, or encumber this Agreement, the Use Area, or any interest therein without the prior written consent of Airports.

ARTICLE XII
EMINENT DOMAIN

In the event that the Government of the United States takes over the operation of the Airport or any part thereof included in this Agreement by requisition or other unilateral action as the result of a national emergency, Airports shall be relieved of any liability incurred hereunder to DPU.

In the event that the Government of the United States takes over such operation as aforesaid, the Airport shall promptly return on a pro-rata basis any then unearned rent paid by DPU hereunder. It is further agreed that, if compensation is awarded by the Government of the United States because of taking over such operations as aforesaid, DPU shall be entitled to share in such award to the extent of its interest therein, based on the value of the unexpired term of this Agreement as such value shall be determined in the proceedings for the taking of such operations and awarding such compensation.

ARTICLE XIII
TERMINATION AND RESTORATION

Except as to those improvements placed on the Use Area by DPU, upon the expiration or termination of this Agreement, as it pertains to any or all of the Use Area, DPU shall have no further right or interest in the Use Area. All improvements erected or placed thereon shall be removed from the Use Area and it shall be returned in the condition it was given to DPU, as bare land.

DPU shall cause the same to be removed from the Use Area within three hundred sixty-five (365) days after the expiration or termination of this Agreement including closure of all water wells, disconnection and removal of all utility service lines and all other things required to surrender possession of the Use Area in a clean and orderly condition in a manner consistent with all legal and regulatory requirements, except as Airports may otherwise agree in writing. Any and all such restoration shall be completed at no cost or expense to Airports and shall include an environmental assessment and clearance.

During the three hundred sixty-five (365) day restoration period, there shall be no liability for rent. If the restoration is not completed within such three hundred sixty-five (365) day period by DPU, then the removal and restoration may be carried out by Airports at DPU's cost and expense, and DPU shall be liable for payment of rent as herein described until restoration is completed.

ARTICLE XIV
HOLDING OVER

In the event DPU should hold over the Use Area beyond the term of this Agreement, with or without the expressed written consent of Airports, such holding over shall be construed to be a month-to-month use right only, and DPU shall pay annual rent to Airports and such rental rate is the amount of rent that was due for the prior Fiscal Year subject to rental adjustments (increases only) as stated in Article VI, Section B for such year-to-year use rights. Otherwise, such holding over shall be subject to all the terms, covenants, and conditions of this Agreement.

ARTICLE XV
DEFAULT BY DPU

In the event that DPU shall fail to keep, observe, undertake, fulfill, or perform any of the terms, covenants, conditions, warranties, agreements, obligations, and/or provisions of this Agreement to be kept, observed, undertaken, fulfilled, and/or performed by DPU, and where such failure shall continue for a period of thirty (30) days following service of written notice thereof upon DPU by Airports, DPU shall be declared to be in default and breach of this Agreement; provided, however, that if the nature of DPU's default is such that more than thirty (30) days are reasonably required for its cure, then DPU shall not be deemed to be in default and breach of this Agreement if DPU commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion as soon as reasonably possible.

Following the occurrence of any default and breach of this Agreement by DPU as set forth within this Article, Airports may then immediately, or at any time thereafter, terminate this Agreement by service of a minimum of ten (10) days advance written notice to such effect upon DPU and this Agreement shall terminate at 11:59:59 p.m., P.S.T. on the termination date specified within such notice. Such notice shall set forth the following:

1. The default and breach which resulted in such termination by Airports; and

2. A Demand for Possession, which, in the event only ten (10) days advance notice shall be given by Airports, shall be effective at 12:00:01 A.M., on the eleventh (11th) calendar day following the date on which the notice in which such demand is contained shall be sufficiently served DPU by Airports in conformity with the "Notice" provisions of this Agreement; or, if more than the minimum number of days advance notice shall be given, at 12:00:01 A.M., on the next day following the date specified within such notice as being the date of termination hereof; and

3. Such notice may contain any other notice which Airports shall be required or desire to give under this Agreement.

ARTICLE XVI
NOTICES

All notices or demands of any kind which Airports may be required to serve on DPU under the terms of this Agreement, may be served upon DPU (as an alternative to personal service upon DPU) by mailing a copy thereof by registered or certified mail, return receipt requested, addressed to DPU:

City of Fresno - DPU Department
Water Division
Management Analyst III
1910 East University Avenue
Fresno, CA 93703-2927

or at such other place as DPU may designate to Airports in writing.

All notices or demands of any kind which DPU may be required or may desire to serve upon Airports under the terms of this Agreement, may be served upon Airports (as an alternative to personal service upon Airports) by mailing a copy thereof by registered or certified mail, return receipt requested, addressed to Airports:

City of Fresno - Airports Department
Attn.: Airport Properties Manager
4995 E. Clinton Way
Fresno, California, 93727

or at such other place as Airports may designate to DPU in writing.

In the event of any service by mail, as aforesaid, service shall be deemed to be complete on the third day after the deposit thereof in the United States mail.

ARTICLE XVII
TERMINATION BY DPU FOR NON-APPROPRIATION

In the sole event of non-appropriation relating to this Agreement, DPU shall have the right to terminate this Agreement at the end of any Fiscal Year of the City of Fresno, in the manner and subject to the terms specified in this paragraph. DPU shall endeavor to give written notice of such termination not less than sixty (60) days prior to the end of such Fiscal Year, and shall notify Airports of any anticipated termination. For purposes of this paragraph, "non-appropriation" shall mean failure of the City of Fresno or its governing body to appropriate money for any Fiscal Year of the City of Fresno sufficient for the continued performance of this Agreement by DPU. In the event of termination by non-appropriation, DPU will be responsible for all demolition and restoration requirements as detailed in Article XIII.

ARTICLE XVIII
SPECIAL PROVISIONS

A. Airports, in the interest of safety, by and through its Director of Aviation or his successor in function, shall at all times during the life of this Agreement have the authority to designate routes to be taken, for access, ingress and egress within the Use Area, by

DPU and DPU's employees, delivery agencies, suppliers, visitors, invitees, and others having business with DPU, and by all automobiles, trucks, and equipment. DPU hereby agrees to honor such authority and to use only the routes so reasonably designated.

B. There is reserved to Airports, its successors and assigns, for the use and benefit of the public, an easement and right of flight for the passage of aircraft in the air space above the surface of the Use Area, together with the right to cause in said air space such noise, fumes, and exhaust as may be inherent in the operation of aircraft now known or hereafter used for navigation or flight in the air space for landing at, taking off from, or operating on the Fresno Yosemite International Airport. Airports assumes no liability for damage to DPU's equipment which may result from such flight operations at the Fresno Yosemite International Airport and DPU agrees to hold Airports harmless for such damage which may result therefrom.

C. DPU shall not erect nor permit the erection of any improvements on the Use Area, which would be an airport hazard within the standards established by Part 77 of the FAA as now existing or as may hereafter be modified, or otherwise impact Terminal Instrument Procedures (TERPS), as determined by FAA.

D. DPU shall not engage in or conduct or permit the conduct of any activity of any kind on the Use Area which will interfere in any manner with the operation of the Fresno Yosemite International Airport as an airport or with aircraft operations or related operations conducted on the airport by the City or its lessees, and shall not make use of said Use Area in any manner which might interfere with the landing and taking off of aircraft, the operation of the approach lighting system, or the operation of the instrument landing system as each presently exists or may hereafter be modified, or otherwise constitute an airport hazard.

E. Airports or any of its authorized officers and employees shall, at all reasonable times, have the right to enter upon the Use Area, either in person or by nominee, for any lawful purpose/use including inspecting the Use Area to ascertain the condition thereof and whether the covenants of this Agreement are being kept, observed and performed.

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IN WITNESS WHEREOF, Airports and DPU have entered into and executed this **MEMORANDUM OF AGREEMENT** as of the day and year first above written.

Airports Department

By: _____
Kevin R. Meikle,
Director of Aviation

Address for Notice:
City of Fresno
Airports Department
4995 E. Clinton Way
Fresno, CA 93727

ATTEST:
Yvonne Spence, CMC
City Clerk

By: _____ 3/4/2014
Deputy

APPROVED AS TO FORM:
Douglas T. Sloan
City Attorney

By: _____ 1/9/14
Brandon M. Collet, Deputy Date
Deputy City Attorney

DPU Department – Water Division

By: _____

Name: Renena Smith
(Printed)

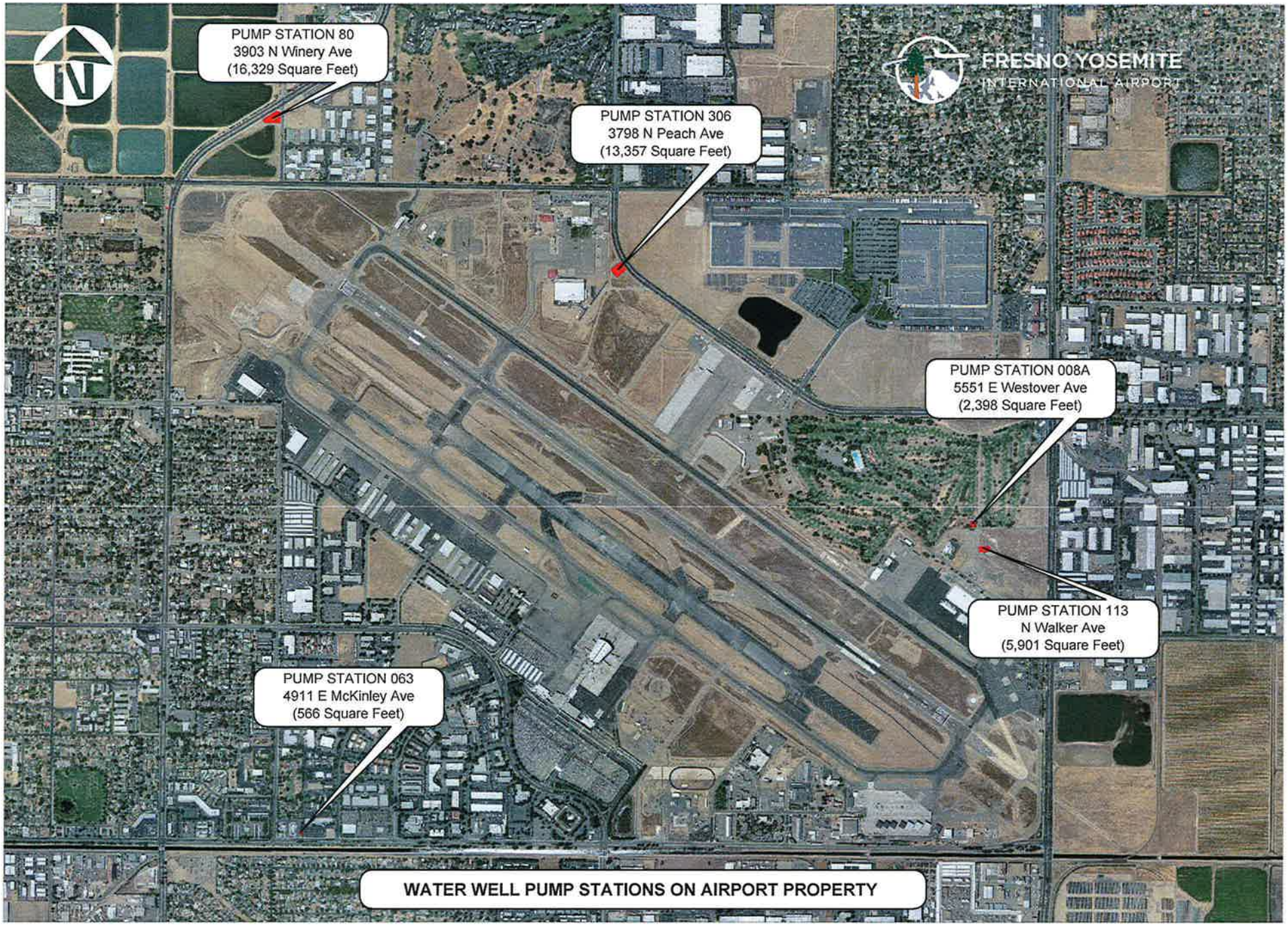
Title: Assistant City Manager

Address for Notice:

City of Fresno - DPU Department
Water Division
Management Analyst III
1910 East University Avenue
Fresno, CA 93703-2927

Exhibit "A" - Map of Use Area
Exhibit "B" - Assurances required by the Federal Aviation Administration
Exhibit "C" - Notice of Annual Rental Adjustment

EXHIBIT “A”



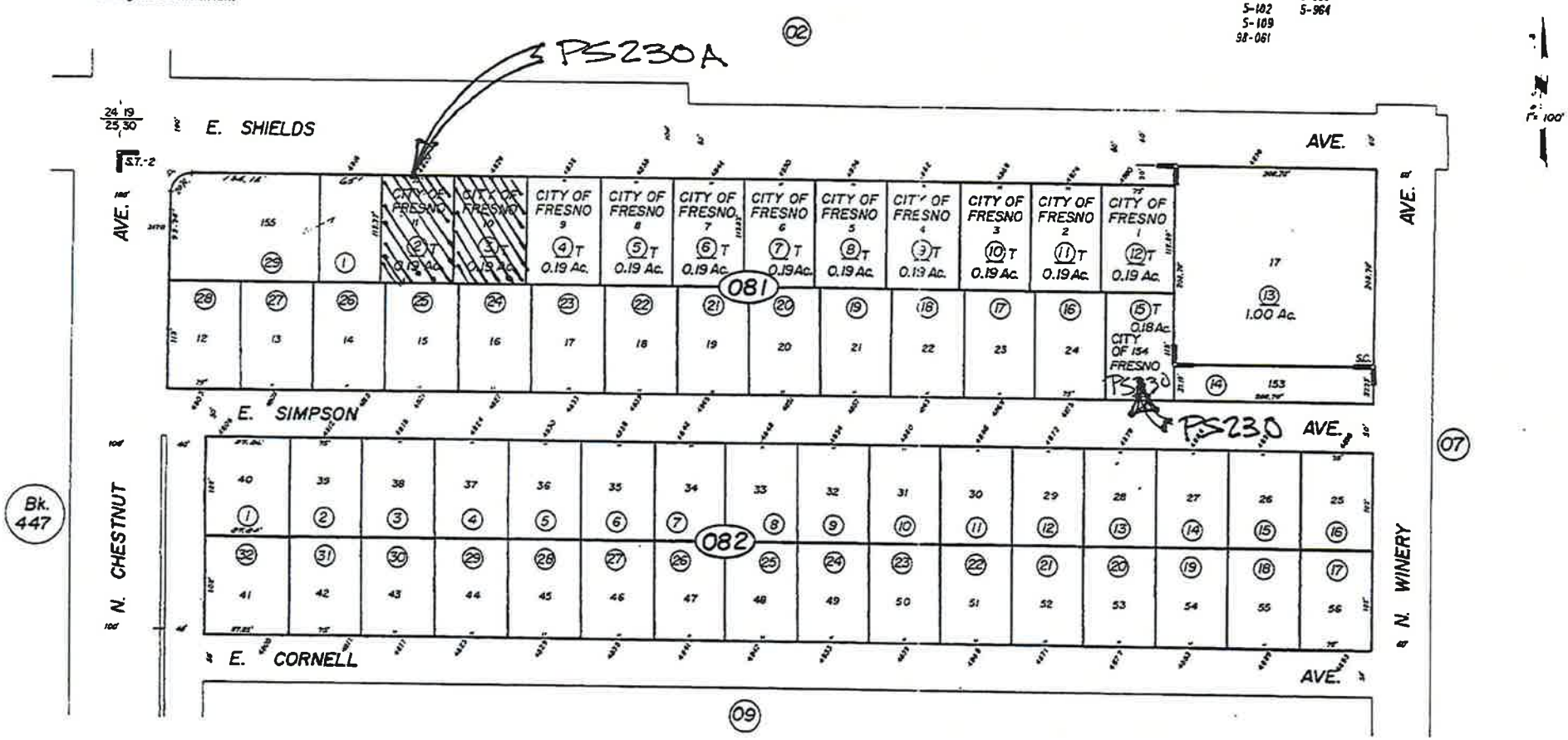
WATER WELL PUMP STATIONS ON AIRPORT PROPERTY

— NOTE —
This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.

SUBDIVIDED LAND IN POR. SEC. 30, T.13 S., R.21 E., M.D.B. & M.

494-08

Tax Area
5-066 5-933
5-182 5-964
5-109
98-061



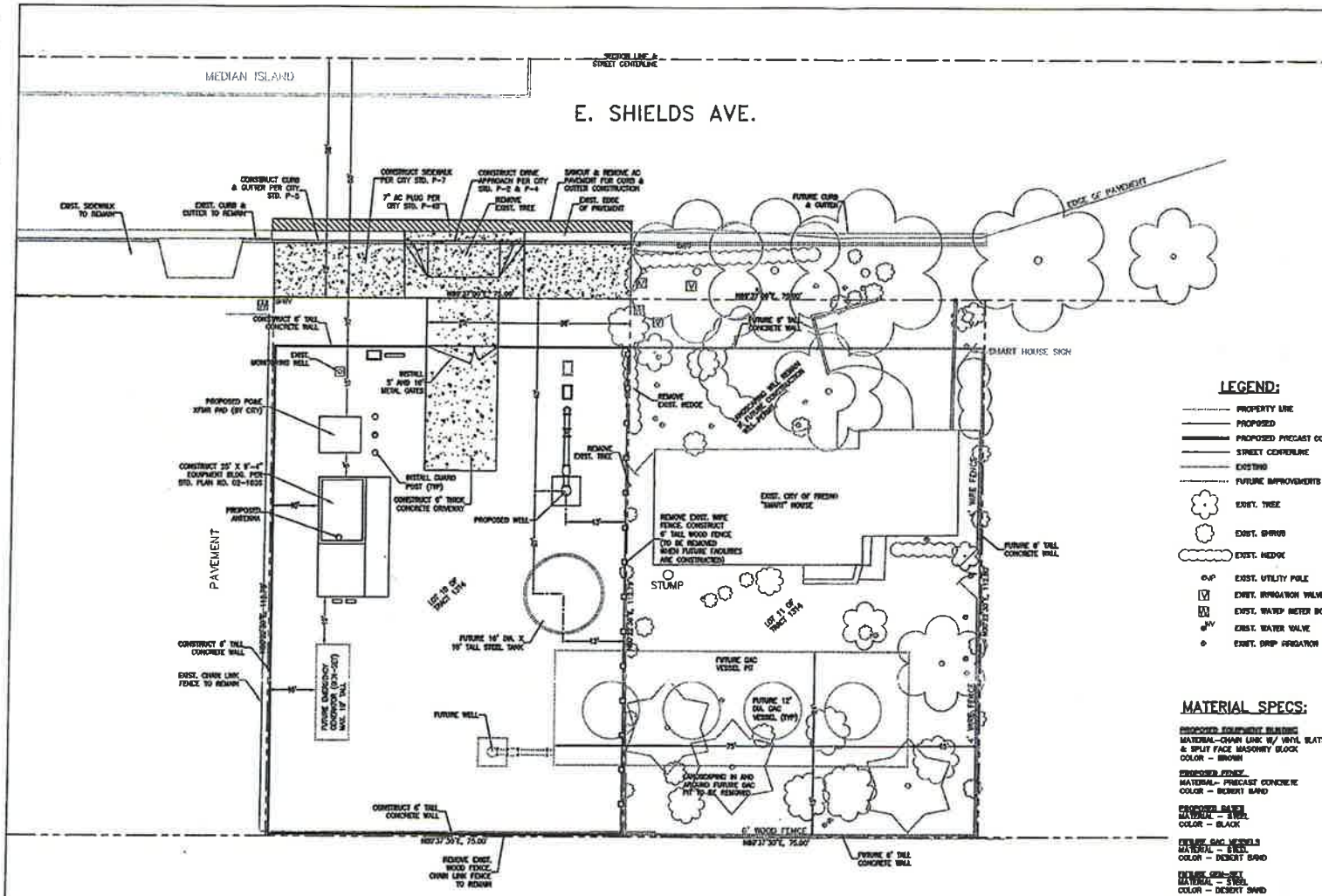
Scandinavian Colony, Plat Bk. 2, Pg. 3
Scandinavian Terrace No. 2, Tract No. 1314 – Plat Bk. 16, Pg. 39

Assessor's Map Bk.494 - Pg 08
County of Fresno, Calif.

NOTE - Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles

1961

PS 230



LEGEND:

- PROPERTY LINE
- PROPOSED
- PROPOSED PRECAST CONCRETE WALL
- STREET CENTERLINE
- EXISTING
- FUTURE IMPROVEMENTS
- EXIST. TREE
- EXIST. SHRUB
- EXIST. HEDGE
- EXIST. UTILITY POLE
- EXIST. IRRIGATION VALVE BOX
- EXIST. WATER METER BOX
- EXIST. WATER VALVE
- EXIST. DRIP IRRIGATION EMITTER

MATERIAL SPECS:

PROPOSED EQUIPMENT BUILDING
MATERIAL–CHAIN LINK W/ VINYL SLATS & SPLIT FACE MASONRY BLOCK
COLOR – BROWN

PROPOSED FENCE
MATERIAL– PRECAST CONCRETE
COLOR – DESERT SAND

PROPOSED GATES
MATERIAL – STEEL
COLOR – BLACK

FUTURE GAC VESSELS
MATERIAL – STEEL
COLOR – DESERT SAND

FUTURE GEN-SET
MATERIAL – STEEL
COLOR – DESERT SAND

FUTURE GENERATION TANK
MATERIAL – STEEL
COLOR – DESERT SAND

GENERAL NOTES:

1. REPAIR ALL DAMAGED OFF SITE CONCRETE STREET IMPROVEMENTS AS DETERMINED BY CONSTRUCTION MANAGEMENT ENGINEERING PRIOR TO OCCUPANCY.

2. ANY SURVEY MONUMENTS WITHIN THE AREA OF CONSTRUCTION SHALL BE PRESERVED BY A REGISTERED CIVIL ENGINEER OR A LICENSED LAND SURVEYOR.

3. TWO (2) WORKING DAYS BEFORE COMMENCING EXCAVATION OPERATIONS WITHIN THE STREET R/W AND/OR UTILITY EASEMENTS ALL UNDERGROUND FACILITIES SHALL HAVE BEEN LOCATED BY UNDERGROUND SERVICE ALERT (USA) CALL 1-800-642-2444

4. ANY UTILITIES REQUIRING RELOCATION SHALL BE THE RESPONSIBILITY AND EXPENSE OF THE DEVELOPER. CONTACT TRAFFIC ENGR. FOR INFORMATION REGARDING REQUIREMENTS RELATIVE TO RELOCATING TRAFFIC SIGNAL FACILITIES. FIRE HYDRANTS WILL BE RELOCATED BY CITY FORCES. DEVELOPER IS RESPONSIBLE TO NOTIFY CITY WATER DIVISION @ 621-5300 TO ARRANGE AND COORDINATE WORK.

5. NO USES OF LAND OTHER THAN THOSE SPECIFICALLY APPROVED PURSUANT TO THIS SITE PLAN SHALL BE PERMITTED.

6. THIS SITE PLAN IS NULL AND VOID IF THE GRADE ELEVATIONS OF THE PROJECT SITE RELATIVE TO THE EXISTING GRADE OF ADJOINING PROPERTIES HAVE A DIFFERENCE OF MORE THAN ONE FOOT AT THE PROPERTY LINES OR 16" ANYWHERE ON SITE.

7. SIGNS ARE NOT APPROVED FOR INSTALLATION AS PART OF THIS SPECIAL PERMIT. SUBMIT FOR SEPARATE SIGN REVIEW (CONTACT PUBLIC SERVICES FOR INFORMATION AT 621-8089)

8. ALL CONSTRUCTION WORK ON THIS PROJECT IS SUBJECT TO INTERRUPTION IF THE WORD SYSTEM BECOMES INPASSABLE FOR FIRE APPARATUS DUE TO RAIN OR OTHER OBSTACLES.

9. LIGHTING WHERE PROVIDED TO ILLUMINATE ANY AREA OR ON-SITE PARKING SHALL BE HOODED AND DIRECTED AWAY FROM ADJACENT STREETS, RESIDENCES OR NEARBY BUILDINGS.

10. FOR STREET TREE WELL REQUIREMENTS IN THE PUBLIC RIGHT-OF-WAY AREA, SUBMIT LANDSCAPE SITE PLAN TO CITY OF FRESNO PARKS DEPT. AND ALLOW FOUR (4) DAYS FOR REVIEW AND RECOMMENDATIONS. CONTACT PARKS DIV. AT 621-2900 FOR PROPER PROCESSING.

11. NO EXPOSED UTILITY BOXES, TRANSFORMERS, METERS, PIPING, (EXCEPTING BACKFLOW PREVENTION DEVICES) ETC., ARE ALLOWED TO BE LOCATED IN LANDSCAPED AREAS OR SETBACKS ON OR ON THE STREET FRONTAGES OF BLDGS. ALL TRANSFORMERS ETC., SHALL BE SHOWN ON THE SITEPLAN. THE BACKFLOW DEVICE SHALL BE SCREENED BY LANDSCAPING OR SUCH OTHER MEANS AS MAY BE APPROVED.

12. TREES SHALL BE MAINTAINED IN GOOD HEALTH. HOWEVER, TREES MAY NOT BE TRIMMED OR PRUNED TO REDUCE THE NATURAL HEIGHT OR OVERALL CROWN OF THE TREE, EXCEPT AS NECESSARY FOR HEALTH OF THE TREE OR PUBLIC SAFETY, OR AS MAY OTHERWISE BE APPROVED BY THE DEVELOPMENT DEPT.

13. LANDSCAPING MUST BE IN PLACE BEFORE ISSUANCE OF CERTIFICATE OF OCCUPANCY

14. PRIOR TO FINAL INSPECTION, A WRITTEN CERTIFICATION, SIGNED BY A LANDSCAPE PROFESSIONAL, APPROVED BY THE DIRECTOR, SHALL BE SUBMITTED STATING THAT THE REQUIRED LANDSCAPING & IRRIG. SYSTEM HAS INSTALLED IN ACCORDANCE W/ THE LANDSCAPING & IRRIG. PLANS APPROVED BY THE PLANNING DIV., DEVELOPMENT DEPT.

15. A BACKFLOW PREVENTION DEVICE IS REQUIRED. CONTACT WATER DIV. AT 621-5330 FOR REQUIREMENTS. DEVICES MUST BE INSTALLED ON SITE IN LOCATION APPROVED BY CROSS CONNECTION OFFICER. A PLUMBING PERMIT IS REQUIRED TO INSTALL DEVICE. BACKFLOW PREVENTION DEVICES REQUIRED SHALL BE INSTALLED AT THE CONTRACTOR'S EXPENSE BY A QUALIFIED JOURNEYMAN PLUMBER CERTIFIED AS COMPETENT FOR SUCH PURPOSES BY THE WATER SYSTEMS MANAGER. BACKFLOW DEVICES MUST BE TESTED AND ACCEPTED BY THE WATER DIV. PRIOR TO GRANTING BLDG. FINAL. CONTRACTOR IS RESPONSIBLE TO CONTACT THE WATER DIV. A MIN. OF 5 WORKING DAYS PRIOR TO REQUEST FOR A FINAL BUILDING INSPECTION.

16. "HAZMAT" PLACARDS TO BE POSTED ON CHLORINATION BUILDING

17. THE MANAGEMENT OF SPENT CARBON MUST BE PERFORMED BY A PROPERLY LICENSED CONTRACTOR THROUGH CONTRACTS APPROVED BY THE CITY ATTORNEY'S OFFICE.

18. ANY CHANGE-OUT OF SPENT CARBON, INSTALLATION OF VIRGIN CARBON, LOADING AND UNLOADING SHALL BE PERFORMED BETWEEN THE HOURS OF 8:00 AM AND 5:00 PM.

19. INSTALL STREET LIGHTS ON ALL FRONTAGES TO CITY STANDARDS AS DETERMINED BY THE CITY TRAFFIC ENGINEER. STREET LIGHTING PLANS ARE REQUIRED AND MUST BE APPROVED BY THE PUBLIC WORKS DEPT./ENGR. SERVICES PRIOR TO COMMENCEMENT OF THE WORK.

20. UNDERGROUND ALL EXIST. OFF-SITE OVERHEAD UTILITIES W/IN THE LIMITS OF THIS SITE/APP AS PER FMC SECTION 12-1011, SECTION 8-0071 & RES. NO. 70-622/68-320.

21. SUBMIT ENGINEERED STREET CONSTRUCTION PLANS TO THE PUBLIC WORKS DEPT.

22. SUBMIT STREET LIGHTING PLANS TO THE PUBLIC WORKS DEPT., TRAFFIC ENGINEERING.

23. CONTACT PUBLIC WORKS DEPT., TRAFFIC ENGINEERING @ 621-8800, 10 WORKING DAYS PRIOR TO ANY OFF-SITE CONCRETE CONSTRUCTION.

VICINITY MAP

SCALE: NTS

ADDRESS: 4520 E. SHIELDS AVE.
A.P.N. 494-081-027 & 031
CUP NO. 0-94

DEPARTMENT OF PUBLIC UTILITIES WATER DIVISION 1910 E. UNIVERSITY AVE. FRESNO, CALIFORNIA 93703 (559) 621-5300	REV. & REV.	CITY OF FRESNO	DEPARTMENT OF PUBLIC WORKS
		PUMP STATION 230A SITE PLAN	APPROVED

FRESNO CHANDLER
EXECUTIVE AIRPORT
EST 1929
N
PUMP STATION 027A
105 W Chandler Ave
(1,638 Square Feet)
12
30
WATER WELL PUMP STATIONS ON AIRPORT PROPERTY

EXHIBIT “B”

FAA
Airports

Grant Assurances
Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.

2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.

3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor**. The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor**. The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project.

C. **Sponsor Certification.** The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

a. Title 49, U.S.C., subtitle VII, as amended.
b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.[1]
c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
d. Hatch Act – 5 U.S.C. 1501, et seq.[2]
e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.[1 2]
f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).[1]
g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.[1]
h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
i. Clean Air Act, P.L. 90-148, as amended.
j. Coastal Zone Management Act, P.L. 93-205, as amended.
k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.[1]
l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
q. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.[1]
r. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.[1]
s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.[1]
t. Copeland Anti kickback Act - 18 U.S.C. 874.1
u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.[1]
v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.[2]
x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

Executive Orders

Executive Order 11246 - Equal Employment Opportunity[1]
Executive Order 11990 - Protection of Wetlands
Executive Order 11998 – Flood Plain Management
Executive Order 12372 - Intergovernmental Review of Federal Programs
Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction[1]
Executive Order 12898 - Environmental Justice

Federal Regulations

a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
c. 14 CFR Part 150 - Airport noise compatibility planning.
d. 29 CFR Part 1 - Procedures for predetermination of wage rates.[1]
e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.[1]
f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).[1]
g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).[1]
h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.[3]
i. 49 CFR Part 20 - New restrictions on lobbying.
j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.[1 2]
m. 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.[1]
o. 49 CFR Part 29 – Government wide debarment and suspension (nonprocurement) and government wide requirements for drug-free workplace (grants).
p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.

q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.[1]

Office of Management and Budget Circulars

a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.

b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

[1] These laws do not apply to airport planning sponsors.

[2] These laws do not apply to private sponsors.

[3] 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

2. Responsibility and Authority of the Sponsor.

a. **Public Agency Sponsor:** It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. **Private Sponsor:** It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability. It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.

c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure

that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.

g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. **Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where the project may be located.

8. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

11. **Pavement Preventive Maintenance**. With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport,

it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. **Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. **Accounting System, Audit, and Record Keeping Requirements.**

    a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

    b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. **Minimum Wage Rates.** It shall include, in all contracts in excess of $2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. **Veteran's Preference.** It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam

era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. **Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. **Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. **Planning Projects.** In carrying out planning projects:

    a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
    b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
    c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
    d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
    e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
    f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
    g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
    h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of

this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

1) Operating the airport's aeronautical facilities whenever required;
2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation. It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use. It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and

2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.

e. Each air carrier using such airport (whether as a tenant, non tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non tenants and signatory carriers and non signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.

g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights. It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and

b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure. It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the

airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:

1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.

3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.

b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections. It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports

available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:

   1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

   2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft. It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or

b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities. It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such

purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and (4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights. It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or

(b) the period during which the sponsor retains ownership or possession of the property.

31. Disposal of Land.

a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.

c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue

from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement **prescribed** for or by the sponsor of the airport.

33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated _____ (the latest approved version as of this grant offer) and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. **Access By Intercity Buses**. The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to

have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

38. **Hangar Construction.** If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. **Competitive Access.**

    a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
        1) Describes the requests;
        2) Provides an explanation as to why the requests could not be accommodated; and
        3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.

    b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

EXHIBIT “C”

FRESNO YOSEMITE
INTERNATIONAL AIRPORT

NOTICE OF ANNUAL RENTAL ADJUSTMENT (Based on USDLBLS Consumer Price Index for Urban Wage Earners and Clerical Workers - ALL ITEMS, U.S. CITY AVERAGE)

August 22, 2013 10:25 AM

RE: DPU - WELL SITES
INTERDEPARTMENTAL USE AGREEMENT

The rental adjustment calculation shown to the right was completed in keeping with the intent of the lease for municipal well operations and maintenance on land owned by Fresno Yosemite International Airport,
For the following locations:

Pump Station 306 (3798 N. Peach Avenue, Fresno, CA) 13,357 square feet; Pump Station 008A (5551 E. Westover Avenue, Fresno, CA) 2,398 square feet; Pump Station ??? (??? N. Walker Avenue, Fresno, CA) 5,901 square feet; and Pump Station 063 (4991 E. McKinley Avenue, Fresno, CA) 566 square feet

between
THE CITY OF FRESNO - AIRPORTS DEPARTMENT
AND
THE CITY OF FRESNO
DEPARTMENT OF PUBLIC UTILITIES - WATER DIVISION

EFFECTIVE: July 1, 2014

MONTHLY RENTAL WILL BE: $2,053.28

If you have any questions concerning this matter, please contact the undersigned at (559) 621-4543.

Very truly yours,

Melissa A. Garza-Perry
Airports Property Specialist II
City of Fresno, Department of Airports

FRESNO YOSEMITE INTERNATIONAL AIRPORT
INTERDEPARTMENTAL USE AGREEMENT

DATE: August 22, 2013 10:25 AM

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ANNUAL RENTAL ADJUSTMENT COMPUTATION
FOR LEASE YEAR COMMENCING:
July 1, 2014

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USDLBLS CPI - JAN-DEC.,	2011	221.575 *
USDLBLS CPI - JAN-DEC.,	2012	226.229 *
AMOUNT OF CPI CHANGE	.....	4.7
PERCENTAGE CPI CHANGE	.....	2.1004%
SQUARE FOOTAGE	.....	57,107.00
CURRENT MONTHLY RENTAL		$2,013.02
CURRENT RENT P/SQ FT/YR	.....	0.423
AMOUNT OF ADJUSTMENT	.....	0.00846
NEW MONTHLY RENTAL		0.43146
AMOUNT OF ADJUSTMENT	.....	$40.26

NEW MONTHLY RENTAL		**$2,053.28**
EFFECTIVE:	July 1, 2014	**$24,639.39**

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Prepared by:

CITY OF FRESNO
DEPARTMENT OF AIRPORTS
PROPERTIES SECTION
4995 EAST CLINTON WAY
FRESNO, CA 93727-1504

TELEPHONE: (559) 621-4500
FACSIMILE: (559) 251-4825

NOTES: * PER USDL/BLS

EXHIBIT "C"

SAMPLE ONLY