

TO: James L. App, City Manager
FROM: Joseph M. Deakin, Public Works Director
SUBJECT: Airport Improvements Reimbursement
DATE: March 4, 2003

NEEDS: For the City Council to consider authorizing reimbursement for public improvements by an airport Lessee, and amending the lease to modify the reimbursement timing and process.

- FACTS:**
1. On September 1, 1987, the City entered into a long-term lease agreement on Parcel 52 in the Airport Industrial Park with Milton C. Culver and Donald L. Culver (Lessee).
 2. The lease agreement requires the Lessee to complete the Cloud Way frontage improvements, and outlines the City reimbursement process for public facility construction costs to the Lessee (sections XI and IX). Essentially, for the current improvements, the Lessee is entitled to 100% reimbursement, subject to City Council confirmation, with the reimbursement paid via lease payment credits.
 3. The required improvements were completed per City standard and the Lessee now requests reimbursement.
 4. Because the work was performed on a public right-of-way using reimbursement from public funds, the Lessee was required to pay prevailing wages to labor performing the work.

**ANALYSIS
AND**

CONCLUSION: In late 2001, the Lessee informed the City that they would be embarking on their Phase II lease site developments. The Lessee agreed, per the lease, to build the City's extension of Cloud Way, to City standards, and in accordance with the City's design for the street. The Lessee was informed that prevailing wage payments were required.

The improvements were completed in mid 2002 and the Lessee presented the City with proof of costs of \$35,497. The lease allows the Lessee to be reimbursed by reducing the monthly lease payment. The Lessee requests a modified approach to reimbursement, to provide repayment more quickly. The maximum lease payment reduction is either \$350 per month or 50% of the lease payment in effect (currently \$1200). The Lessee requests a lump sum reimbursement in the amount of \$5,857 (the difference between the prevailing wage project cost and the cost were prevailing wages not required). The remaining \$29,640 could be repaid to the Lessee at \$600 per month, over the next 50 months (the final month's credit would be \$240).

The Council may opt to reimburse 100% of the costs per the monthly credit method as originally described in the lease (\$600 for 59 months, plus a final \$97 payment). The Council may also opt to increase or decrease the lump-sum reimbursement, and choose \$360 per month (over the next 82 months) as the credit amount, versus the \$600.

POLICY

REFERENCE: Airport Lease dated July 30, 1987.

FISCAL

IMPACT:

The Airport Enterprise Fund is facing a \$35,497 expense regardless of how the money gets reimbursed. While there is a slight advantage to the City by using the longest payment schedule, it is insignificant.

OPTIONS:

- a. Maintain Lease provisions as provided, providing a reimbursement for improvements to Cloud Way at \$600 per month for 59 months, with a final payment of \$97.
- b. Approve Resolution No. 03-xx approving a Lease Addendum allowing accelerated reimbursement to the Lessee for public improvements performed (\$5,857 lump sum reimbursement, with \$600 monthly credit for 50 months, and a final month's credit of \$240).
- c. Amend, modify, or reject the above options.

Attachments (2):

- (1) Resolution
- (2) Lease Addendum

RESOLUTION NO. 03-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
APPROVING AN ADDENDUM TO LEASE TO REIMBURSE
FOR AIRPORT INFRASTRUCTURE IMPROVEMENTS (CULVER)

WHEREAS, on September 1, 1987, the City entered in to a long-term lease agreement on Parcel 52 in the Airport Industrial Park with Milton C. Culver and Donald L. Culver (Lessee); and

WHEREAS, the lease agreement requires the Lessee to complete the Cloud Way frontage improvements, and outlines the City reimbursement process for public facility construction costs to the Lessee; and

WHEREAS, for the current improvements, the Lessee is entitled to 100% reimbursement, subject to city Council confirmation, with the reimbursement paid via lease payment credits; and

WHEREAS, because the work was performed on a public right-of-way using reimbursement from public funds, the Lessee was required to pay prevailing wages to labor performing the work.

WHEREAS, the required improvements were completed per City standard and the Lessee now requests reimbursement; and

THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The City Council of the City of Paso Robles does hereby accept the infrastructure improvements as constructed and the associated expenses appurtenant thereto; and

SECTION 2. Approve and adopt the attached Addendum to Lease, together with the associated payments and reimbursement procedures therein specified.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 4th day of March 2003 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

ADDENDUM TO AIRPORT LEASE

This addendum to lease made and entered into this 21st day of January, 2003, by and between the City of El Paso de Robles, a political subdivision and one of the cities to the State of California, (hereinafter called "City" or "Lessor") and **Milton C. Culver & Donald L. Culver**, (hereinafter called "Lessee") who agree as follows:

RECITALS

- A. City and Lessee have entered into that certain Municipal Airport Lease dated September 1, 1987, (the "Lease") providing for the leasing by Lessee of Parcel 52 of Parcel Map PRAL 80-53 at the Paso Robles Municipal Airport.
- B. Section XI (Conditions), #3, of the lease agreement requires the completion of the Cloud Way frontage (curb, gutter, sidewalk and street paving) to the lease site by the lessee.
- C. Section IX (Reimbursement) outlines the procedure for City reimbursement of the construction costs to the Lessee by credits to the monthly lease payment.
- D. The required improvements have been completed and accepted by the City.

AGREEMENT

- 1. Addendum of Lease. Pursuant to the requirements of Section IX (Reimbursement), paragraph 2, the costs for the final construction of the Cloud Way improvements are presented to the City Council and approved.
- 2. Reimbursement. Consistent with the above paragraph, reimbursement is approved for a total amount of \$ _____.
- 3. Lump Sum. The construction costs associated with the project modifications (drainage and alignment changes) and compliance with current prevailing wage rate provisions are reimbursed to Lessee in a lump sum amount of \$ _____, effective with the execution of this agreement.
- 4. Lease Credit. The remainder of the reimbursement amount due to Lessee shall be reimbursed, in sixty (60) equal payments of \$ 494.00, deducted from the monthly rental payment due to the City as specified in the existing lease agreement. The first deduction shall occur with the rental payment due March 1, 2003. The final deduction shall occur with the rental payment due February 1, 2008. The total amount reimbursed under this provision shall not exceed \$ 29,640.00.
- 5. No further addendum. The lease shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Addendum to be duly executed this 21st day of January, 2003.

CITY OF EL PASO DE ROBLES

LESSEE

By: _____
Frank R. Mecham, Mayor

By: _____
Mitchell Culver, Partner

ATTEST:

By: _____
Sharilyn M. Ryan, Deputy City Clerk