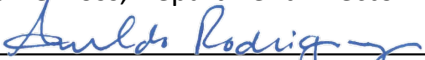


REPORT TO CITY COUNCIL

Approved by: 

Daniel Foss, Department Director



Arnaldo Rodriguez, City Manager

Council Meeting of: **March 17, 2021**

Agenda Number: B-9

SUBJECT:

Antenna and equipment space lease renewal at the Madera Municipal Airport

RECOMMENDATION:

Adopt a Resolution Approving the Antenna and Equipment Space Lease Renewal with the Federal Aviation Administration at the Madera Municipal Airport

SUMMARY:

The Federal Aviation Administration (FAA) is requesting a space lease renewal for the 84"x22"x22" rack in the janitorial storage room and 4 antennae attached to each corner of the main lobby building located at the Madera Municipal Airport (see Figure 1).

The purpose of the antennae and janitorial rack area is to provide a required air navigational facility that provides critical air-to-ground communication as required by the FAA and is for the safety of air traffic and the public. The City Council previously adopted Resolution No. 20-142 approving the lease agreement; however, subsequent to that the FAA requested additional language to the agreement. The prior two resolutions will be superseded by this resolution.



Figure 1: Subject Property

DISCUSSION:

The initial lease was signed into effect on March 12, 2002 and expired September 30, 2020. The term of the lease renewal will be retroactive and commence upon October 1, 2020 and will expire September 30, 2040. Provided by the FAA, this is also a no cost land lease. Therefore, the renewal of this lease will ensure the airport is providing the necessary aeronautical communications at the Madera Municipal Airport for the next 20 years.

FINANCIAL IMPACT:

There is no fiscal impact related to the adoption of the antenna and equipment space lease renewal at the Madera Municipal Airport due to the lease being a no cost land lease.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

Approval of this item is not directly addressed in the Vision or Action Plans.

ALTERNATIVES:

Council may choose to not approve the antenna and equipment space lease renewal at the Madera Municipal Airport.

ATTACHMENTS:

1. Resolution
 - a. Exhibit A – Antenna and Equipment Lease
 - b. Exhibit B - Public Authorization Certificate

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA
APPROVING AN ANTENNA AND EQUIPMENT SPACE LEASE RENEWAL WITH
THE FEDERAL AVIATION ADMINISTRATION AT THE MADERA MUNICIPAL
AIRPORT**

WHEREAS, the City entered into an antenna and equipment space lease agreement with the Federal Aviation Administration (FAA) on March 12, 2002; and

WHEREAS, the initial lease agreement expired on September 30, 2020; and

WHEREAS, the FAA is requesting to lease space in the janitorial storage room and adequate space to install four antennae attached to each corner of the main lobby building; and

WHEREAS, this is a no cost lease agreement; and

WHEREAS, repeal of the prior two resolutions approving the lease is necessary due to incorporation of new security language implementation requested by FAA; and

WHEREAS, the FAA has identified the need to renew the lease and extend the term by 20 years commencing on October 1, 2020 and extending through October 1, 2040; and

WHEREAS, the lease renewal will be retroactive to the date of expiration of the initial lease; and

WHEREAS, the City agrees that the lease needs to be extended.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA HEREBY finds, orders, and resolves as follows:

1. The above recitals are true and correct.
2. The City Council approves the antenna and equipment space lease with the FAA. A copy of said lease is attached as Exhibit A and is incorporated by reference. A copy of a requested Public Authorization Certificate is attached as Exhibit B.
3. Resolution No. 20-142 is repealed and superseded by this resolution.
4. This resolution is effective immediately upon adoption.

ANTENNA AND EQUIPMENT SPACE LEASE

Between

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

And

CITY OF MADERA

**Lease No. 690EG4-20-L-00059
(MAE) RTR
MADERA, CA**

SECTION 1 - OPENING

6.1.1 Preamble (JAN 2017)

This Lease is hereby entered into by and between the CITY OF MADERA, a Municipal Corporation of the State of California, whose address is 205 West 4th Avenue, Madera, CA 93637, hereinafter referred to as the Lessor and the United States of America, acting by and through the Federal Aviation Administration, hereinafter referred to as the Government. The terms and provisions of this Lease, and the conditions herein, bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns.

For purposes of this Lease, the terms Contractor and Lessor are interchangeable with each other.

6.1.2 Succeeding Lease (JAN 2015)

This Lease succeeds Lease No. DTFA08-00-L-20419 and all other previous agreements between the parties for the leased property described in this document.

6.1.3 Witnesseth (JAN 2015)

Witnesseth: The parties hereto, for the consideration hereinafter mentioned covenant and agree as follows:

6.1.4 Description (OCT 1996)

The Lessor hereby leases to the Government the following described premises which shall be related to the FAA's activities in support of Air Traffic Operations (Premises):

A space for the 84"x22"x22" rack in the janitorial storage room and 4 antenna attached to each corner of the building located at the Madera Municipal Airport, 4020 Aviation Drive, Madera, CA also known as (MAE) RTR.

SECTION 2 - TERMS

6.2.5 Term (AUG 2002)

To have and to hold, for the term commencing on October 01, 2020 and continuing through September 30, 2040 inclusive, provided that adequate appropriations are available from year to year for the consideration herein.

6.2.6.3 Consideration (JAN 2019)

The Government shall pay the Lessor no monetary consideration in the form of rent. It is mutually agreed that the rights extended to the Government herein are in consideration of the obligations assumed by the Lessor in its establishment, operation and maintenance of facilities upon the premises hereby leased.

6.2.7 Cancellation

The Government may terminate this Lease at any time, in whole or in part, if the Real Estate Contracting Officer (RECO) determines that a termination is in the best interest of the Government. The RECO shall terminate by delivering to the Lessor a written notice specifying the effective date of the termination. The termination notice shall be delivered by certified mail return receipt requested and mailed at least 90 days before the effective termination date.

Government understands Lessor has the right to replace the Premises, in whole or in part, with equivalent premises similarly situated at the Airport. If the change is solely for the benefit of Lessor, Lessor agrees to pay all reasonable relocation costs and expenses associated with relocating Government.

6.2.14 Holdover (JUL 2017)

If after the expiration of the Lease, the Government shall retain possession of the Premises, the Lease shall continue in full force and effect on a month-to-month basis. Payment shall be made in accordance with the Consideration clause of the Lease, in arrears on a prorated basis, at the rate paid during the Lease term. This period shall continue until the Government shall have signed a new lease with the Lessor, acquired the property in fee, or vacated the Premises.

6.2.16 Lessor's Successors (JUL 2017)

The terms and provisions of this Lease and the conditions herein bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns.

SECTION 3 - GENERAL CLAUSES

3.2.5-1-RE Officials Not to Benefit (OCT 1996)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this lease, or to any benefit arising from it. However, this clause does not apply to this lease to the extent that this lease is made with a corporation for the corporation's general benefit.

3.3.1-15-RE Assignment of Claims (OCT 1996)

Pursuant to the Assignment of Claims Act, as amended, 31 U.S.C. § 3727, 41 U.S.C. § 6305 the Lessor may assign its rights to be paid under this lease.

6.3.10 Maintenance of Premises (JAN 2017)

The Lessor will maintain the demised premises, including the building, grounds, all equipment, fixtures and appurtenances furnished by the Lessor under this Lease, in good repair and tenantable condition. The Lessor shall ensure that all hazards associated with electrical equipment are marked in accordance with the Occupational Safety

and Health Administration (OSHA) requirements and National Fire Protection Association (NFPA) 70 electrical code.

6.3.17 No Waiver (OCT 1996)

No failure by the Government to insist upon strict performance of any provision of this Lease, or failure to exercise any right, or remedy consequent to a breach thereof, will constitute a waiver of any such breach in the future.

6.3.18 Non-Restoration (JUL 2017)

It is hereby agreed between the parties that, upon termination of its occupancy (due to termination or expiration of the Lease), the Government shall have no obligation to restore and/or rehabilitate, either wholly or partially, the property that is the subject of this lease, including any holdover period. It is further agreed that the Government may abandon in place any or all of the structures and equipment installed in or located upon said property by the Government during its tenure. Such abandoned equipment shall become the property of the Lessor.

6.3.26 Damage by Fire or Other Casualty (OCT 1996)

If the building or structure is partially or totally destroyed or damaged by fire or other casualty or if environmentally hazardous conditions are found to exist so that the leased premises is untenable as determined by the Government, the Government may terminate the Lease, in whole or in part, immediately by giving written notice to the Lessor and no further rent will be due.

6.3.28 Interference (OCT 2008)

Should there be interference with the Lessor's facility due to the FAA operations, the FAA shall correct the problem immediately. If the Lessor's facility interferes with FAA's equipment, then the Lessor will correct the problem immediately.

6.3.29 Alterations

The Government shall have the right during the term of this Lease, including any extensions thereof, to make alterations, attach fixtures, and erect structures or signs in or upon the premises hereby leased. All alterations and additions are and will remain the property of the Government and may be removed or otherwise disposed of by the Government.

6.3.30 Hold Harmless

In accordance with and subject to the conditions, limitations and exceptions set forth in the Federal Tort Claims Act of 1948, as amended (28 USC 2671 et. seq.), hereafter termed "the Act" the Government will be liable to persons damaged by any personal injury, death or injury to or loss of property, which is caused by a negligent or wrongful act or omission of an employee or agent of the Government while acting within the scope of his office or employment under circumstances where a private person would be liable in accordance with the law of the place where the act or omission occurred. The foregoing shall not be deemed to extend the Government's liability beyond that existing under the Act at the time of such act or omission or to preclude the Government from using any defense available in law or equity.

6.3.31 Default by Lessor (OCT 1996)

Each of the following shall constitute a default by Lessor under this Lease:

- A. If the Lessor fails to perform the work required to deliver the leased premises ready for occupancy by the Government with such diligence as will ensure delivery of the leased premises within the time required by the lease agreement, or any extension of the specified time.
- B. Failure to maintain, repair, operate or service the premises as and when specified in this Lease, or failure to perform any other requirement of this Lease as and when required, provided such failure which shall remain uncured for a period of time as specified by the RECO, following Lessor's receipt of written notice thereof from the RECO.
- C. Repeated failure by the Lessor to comply with one or more requirements of this Lease shall constitute a default notwithstanding that one or all failures shall have been timely cured pursuant to this clause.

If default occurs, the Government may, by written notice to the Lessor, terminate the lease in whole or in part.

6.3.32 Compliance with Applicable Laws (OCT 1996)

The Lessor shall comply with all federal, state and local laws applicable to the Lessor as owner or Lessor, or both, of building or premises, including, without limitation, laws applicable to the construction, ownership, alteration or operation of both or either thereof, and will obtain all necessary permits, licenses and similar items at Lessor's expense. This Lease shall be governed by federal law.

6.3.33 Covenant Against Contingent Fees (AUG 2002)

The Lessor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.

6.3.34 Anti-Kickback (JAN 2017)

The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from (1) Providing or attempting to provide or offering to provide any kickback; (2) Soliciting, accepting, or attempting to accept any kickback; or (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

6.3.35 Examination of Records (AUG 2002)

The Comptroller General of the United States, the Administrator of FAA or a duly authorized representative from either shall, until three (3) years after final payment under this contract have access to and the right to examine any of the Lessor's directly pertinent books, documents, paper, or other records involving transactions related to this contract.

6.3.36 Subordination, Nondisturbance and Attornment (JAN 2017)

A. The Government agrees, in consideration of the warranties and conditions set forth in this clause, that this Lease is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this Lease. Based on a written demand received by the RECO, the Government will review and, if acceptable, execute such instruments as Lessor may reasonably request to evidence further the subordination of this Lease to any existing or future mortgage, deed of trust or other security interest pertaining to

the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by Lessor if such easement does not interfere with the full enjoyment of any right granted the Government under this Lease.

B. No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this Lease so long as the Government is not in default under this Lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this Lease becomes subordinate, or in a separate non-disturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the RECO promptly upon demand.

C. In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the Lessor under this Lease, so as to establish direct privity of estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Government; provided, further, that the RECO and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this Lease, or other writings, as shall be necessary to document the foregoing relationship.

D. None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.

6.3.39 Integrated Agreement (OCT 1996)

This Lease, upon execution, contains the entire agreement of the parties, and no prior written or oral agreement, express or implied shall be admissible to contradict the provisions of this Lease.

6.3.44 Inspection (OCT 1996)

The Government reserves the right, at any time after the Lease is signed and during the term of the Lease, to inspect the leased premises and all other areas of the building to which access is necessary, to ensure a safe and healthy work environment for the Government tenants and the Lessor's performance under this Lease. The Government shall have the right to perform sampling of suspected hazardous conditions.

6.3.45 Contract Disputes (JAN 2017)

All contract disputes arising under or related to this Lease will be resolved through the FAA dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and will be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and will apply only to final agency decisions. A Lessor may seek review of a final Government decision only after its administrative remedies have been exhausted.

All contract disputes will be in writing and will be filed at the following address:

Office of Dispute Resolution for Acquisition, AGC-70
Federal Aviation Administration
800 Independence Avenue, S.W., Room 323

Washington, DC 20591
Telephone: (202) 267-3290

A contract dispute against the FAA will be filed with the ODRA within two (2) years of the accrual of the lease claim involved. A contract dispute is considered to be filed on the date it is received by the ODRA.

The full text of the Contract Disputes clause is incorporated by reference. Upon request the full text will be provided by the RECO.

SECTION 4 - FINANCIAL CLAUSES

6.4.1 System for Award Management - Real Property - SAM Waiver (JAN 2017)

The System for Award Management (SAM) is the Government's required method to receive vendor information. However, you have been granted an exception to SAM and therefore must provide your initial payment information and any future changes to your payment information to the RECO on a completed and signed "Vendor Miscellaneous Payment Information" form, together with any other required notice under this lease.

6.4.2 Payment by Electronic Funds Transfer (JAN 2017) NOT APPLICABLE

SECTION 5 - DESIGN AND CONSTRUCTION CLAUSE

6.5.22 Installation of Antennas, Cables & Other Appurtenances (JAN 2017)

The Government shall have the right to install, operate and maintain antennas, wires and their supporting structures, including any linking wires, connecting cables and conduits atop and within buildings and structures, or at other locations, as deemed necessary by the Government. The Government will coordinate with the Lessor when installing antennas, cables, and other appurtenances.

SECTION 6 - GENERAL BUILDING REQUIREMENTS AND SPECIFICATIONS CLAUSES – NOT APPLICABLE

SECTION 7 - SERVICES, UTILITIES, AND MAINTENANCE CLAUSES

6.7.1-1 Services and Utilities (JAN 2017)

Services supplied to technical equipment will be supplied 24 hours a day, and seven days a week. The Government will have access to the leased premises at all times, including the use of electrical services without additional payment.

A. ELECTRICIT

SECTION 8 - ENVIRONMENTAL OCCUPATIONAL SAFETY AND HEALTH CLAUSES – Not Applicable

SECTION 9 - SECURITY CLAUSES

6.9.5 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment 10/2020

(a) Definitions. As used in this clause—

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means—

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
- (2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (3) Telecommunications or video surveillance services provided by such entities or using such equipment; or
- (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means—

- (1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;
- (2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled—
 - (i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or
 - (ii) For reasons relating to regional stability or surreptitious listening.
- (3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);
- (4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);
- (5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or 5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or
- (6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) Prohibitions.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in AMS T3.6.4 A 16.e.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020 from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in AMS T3.6.4A.16.e. This prohibition applies to an entity that uses covered telecommunications equipment or services, including use not in support of the Government.

(c) Exceptions. This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor must report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information. For indefinite delivery contracts, the Contractor must report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order.

(2) The Contractor must report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Contractor must describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor must insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

6.9.5-1 Covered Telecommunications Equipment or Services- Representation (09/2020)

(a) Definitions. As used in this provision, “covered telecommunications equipment or services” has the meaning per the clause 6.9.5 “Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment”.

(b) Procedures. The offeror must review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for covered telecommunications equipment or services.

(c) Representation. The offeror represents that it does, does not provide covered telecommunications equipment or services as part of its offered products or services to the Government in the performance of any contract, subcontract, to other contractual instrument.

6.9.5-2 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment 10/2020

(a) Definitions. As used in this provision--
Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause AMS clause 6.9.5, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) Prohibitions.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Nothing in this prohibition will be construed to—

(i) Prohibit the head of the agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020 from entering into a contract or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential part of any system or as critical technology as part of any system. This prohibition applies to any entity that uses covered telecommunications equipment or services, including uses not in support of the Government. Nothing in this prohibition will be construed to-

(i) Prohibit the head of the agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) Procedures: The offeror must review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from Federal awards for covered telecommunications equipment or services.

(d) Representations.

(1) The Offeror represents that it will, will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation.

(2) After conducting a reasonable inquiry for purposes of this representation, the Offeror represents that it does does not USE covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror must provide the additional disclosure information required at paragraph (e) if the Offeror indicates “does”.

(e) Disclosures.

Disclosure for the representation in paragraph (d)(1) of this provision- If the Offeror has responded “will” in the representation in paragraph (d)(1) of this provision, the Offeror must provide the following information as part of the offer—

(1) For covered equipment

(i) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known;

(ii) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(iii) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b) (1) of this provision;

(2) For covered services-

(i) If the service is related to item maintenance, a description of all covered telecommunications services offered (include on the item being maintained: brand, model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(ii) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed uses of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

Disclosure for representation in paragraph (d)(2) of this provision. If the Offeror has responded “does” to paragraph (d)(2) of this provision, the offeror must provide the following information as part of the offer—

(3) For covered equipment

(i) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(ii) A description of all covered telecommunications equipment offered (include brand; model number, such as original equipment manufacturer (OEM) number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(iii) Explanation of the proposed use of covered telecommunications equipment and services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b) (2) of this provision.

(4) For covered services-

(i) If the service is related to item maintenance, a description of all covered telecommunications services offered (include on the item being maintained: brand, model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(ii) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed uses of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision

SECTION 10 – CLOSING

6.10.1 Notices (JUL 2017)

All notices/correspondence shall be in writing, reference the Lease number, and be addressed as follows:

TO THE LESSOR:
CITY OF MADERA
205 West 4th Avenue
Madera, CA 93637

TO THE GOVERNMENT:
Federal Aviation Administration
Real Estate Branch,
2200 S. 216th Street
Des Moines, WA 98198
REF# MAE-RTR 690EG4-20-L-00059

6.10.3 Signature Block (JUL 2017)

This Lease shall become effective when it is fully executed by all parties.

In witness whereof, the parties hereto have signed their names.

CITY OF MADERA, a Municipal Corporation of the State of California

By: _____

Print Name: Santos Garcia

Title: MAYOR

Date: _____

ATTEST: _____

Print Name: Alicia Gonzales

Title: City Clerk

Date: _____

Approved as to Form: _____

Print Name: Hilda Montoy

Title: City Attorney

Date: _____

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

By: _____

Print Name: Damon McGruder

Title: Real Estate Contracting Officer

Date: _____

SECTION 11 – ATTACHMENTS/EXHIBITS/SPECIAL STIPULATIONS

Attachment/Exhibit List

Number	Title	Date	Number of Pages
1	Public Authorization Certificate		1

Exhibit B
PUBLIC AUTHORIZATION CERTIFICATE

On this _____ day of _____, 20____, I **Alicia Gonzales** certify that I am the **City Clerk** of the **City of Madera** named in the attached agreement; that **Santos Garcia** who signed said agreement on behalf of the **City of Madera** is **Mayor** of said **City**; that said agreement was duly signed for and on behalf of **City of Madera** by authority of its governing body, and is within the scope of its powers.

Signed _____