



RECEIVED
11/8/12

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE
GOVERNOR

EUGENE A. CONTI, JR.
SECRETARY

October 29, 2012

Mr. Bob Howard, Chairman
Rutherford County Airport Authority
c/o Rutherford County Finance
289 N. Main Street
Rutherfordton, NC 28139

Dear Mr. Howard:

On behalf of Governor Beverly Eaves Perdue, Transportation Secretary Eugene A. Conti, Jr., and the NC Board of Transportation, please be advised that federal funds, including Non Primary Entitlement funding, has been allocated for Rutherford County-Marchman Field. The specific work elements and approved funding is as shown below.

Project #	Federal Funds (NPE)	Federal Funds	Local Match
36237.20.13.1	\$150,000	\$211,028	\$40,114

Land Acquisition-Runway 19 Runway Protection Zone

The NCDOT-Division of Aviation appreciates your commitment and contribution to our state aviation system. With aviation partners like you, North Carolina will continue to be *First in Flight....*

Sincerely,

Richard J. Walls, P.E.
Director of Aviation

RJW/ncs

Attachment

- cc: Governor Beverly Eaves Perdue
- Eugene A. Conti, Jr., Secretary, NCDOT
- Paul Morris, FASLA, Deputy Secretary for Transit
- Kay Hagan, United States Senate
- Richard Burr, United States Senate
- Patrick McHenry, United States Congress
- Heath Shuler, United States Congress
- Wanda Proffitt, BOT Representative
- Leigh McNairy, BOT At-Large Member

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
DIVISION OF AVIATION
1560 MAIL SERVICE CENTER
RALEIGH NC 27699-1560

TELEPHONE: 919-840-0112
FAX: 919-840-9267

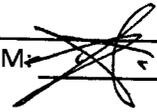
WEBSITE: WWW.NCDOT.GOV

LOCATION:
RDU AIRPORT
1050 MERIDIAN DRIVE
RDU NC 27623

Project Worksheet

Rutherford County Airport

Land Acquisition- Runway 19 RPZ

APM: 
Airport Dev. Manager: 
Grant Admin: 

Total Funding

No.	Funding Source	Grant Funds	Local Funds	Total	Note
1	New Federal Grant	\$211,028	\$23,448	\$234,476	Grant Adjustment
2	FFY 2009-10 Block 39 NPE	\$20,602.00	\$2,289.00	\$22,891.00	
3	FFY 2010-11 Block 42 NPE	\$150,000	\$16,667	\$166,667	
4	FFY 2011-12 Block 44 NPE	\$150,000	\$16,667	\$166,667	
Totals		\$531,630	\$59,071	\$590,701	

Grant

No.	Description	Funding Source	WBS	Grant Funds	Local Funds	Total	Note
1	Land Acquisition	Federal	36237.20.12.1	\$531,630	\$59,071	\$590,701	Final funding to be based on negotiated settlement
Totals				\$531,630	\$59,071	\$590,701	

Attachment

GRANT REQUEST INSTRUCTIONS

The forms needed to request your grant are:

- AV500 Certification of Funds
- AV501 Request for Aid
- AV504 Budget
- AV508 DBE/MBE/WBE PreBid

These forms can be found under the Airports Grant Program at ncdot.org/transit/aviation.

Please contact your Airport Project Manager for assistance with your DBE/MBE/WBE goal information which is set by the state. Remember, the project number should be used on all correspondence.

North Carolina Department of Transportation
Division of Aviation

Pre Bid DBE/MBE/WBE Goal Notification and Certification

Airport: Rutherford County Airport

Project Number: 36237.20.13.1

Project Description Land Acquisition-Runway 19 Runway Protection Zone

DBE/MBE/WBE Goal: NA

I acknowledge the above goal and certify that it was used in the bid documents for the project according to the applicable federal law CFR Title 49 Part 26 and state statues GS 136-28.4; EO 106; GS 143-48; GS 136-28.10

Paula Roach 2/14/13
Name, Title Date

Attach a copy of proposed advertisement and/or contract documents

AV-PREBID (AV-508) (10/06)

AIRPORT NAME: Rutherford County – Marchman Field **PROJECT #:** 36237.20.13.1

DESCRIPTION: Land Acquisition-Runway 19 Runway Protection Zone

Certification of Local Funds and Accounting Information

Total State Aid Grant: _____ Federal Block Grant: \$361,028

Local Matching Funds Required: \$40,114 representing a 10% local share of the project

1. Accounting System Information

Official Name of Sponsoring Agency: Rutherford County

Name of Budget Official Responsible for Project Accounting: Paula Roach

Title of Budget Official Responsible for Project Accounting: Finance Director

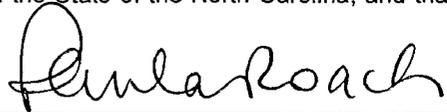
Budget Official Address: Rutherford County Finance Department
289 N. Main Street, Rutherfordton, North Carolina 28139

Budget Official Telephone Number: 828-287-6085 FAX: 828-287-6210

2. Certification of Local Funds Availability & Single Audit Accounting

I hereby certify that the local matching share of \$ 40,114 required for this project has been officially approved, placed into the budget of the Sponsoring local governmental unit and will be available for expenditure upon execution of the State Aid to Airports to Airports Grant Agreement and start of this project. I further certify that the authority of the Sponsoring local governmental unit to enter into contracts with the state of North Carolina has been reviewed by the governmental attorney and, in his opinion, the Sponsoring local governmental unit is duly authorized to commit the Sponsor to an Agreement with the North Carolina Department of Transportation.

I further certify that all expenditures on this project will be accounted for in a manner consistent with the requirements of the State Auditor, that the Sponsor has made appropriate arrangements to have its accounts audited on an annual basis in conformance with the Single Audit Act of the State of the North Carolina, and that each annual Single Audit will contain the required information about this project.

Signed: 

Title: Paula Roach, Finance Director

Name of Sponsoring Local Governmental Unit: Rutherford County

Date: 2/14/13

RETURN FORM TO: NCDOT AVIATION, GRANTS MANAGER, 1560 Mail Service Center, Raleigh, NC 27699-1560 AV-CERT AV-CERT (AV-500) - (10/96)

N.C. Department of Transportation-Division of Aviation
State Aid to Airports Program

AIRPORT NAME: Rutherford County Airport – Marchman Field **PROJECT #:** 36237.20.13.1

Request For Aid

Name of Sponsoring Agency: Rutherford County

Sponsor Contact: Paula Roach, Finance Director

Mailing Address: Rutherford County Finance Department

289 N. Main Street, Rutherfordton, North Carolina 28139

Contact Telephone Numbers: Phone: 828-287-6085 FAX: 828-287-6210

Name of Consulting Firm: WK Dickson & Co., Inc.

Consultant's Project Manager: James A. Luther

Consultant's Telephone Numbers: Phone: 704-334-5348 FAX: 704-334-0078

If this is a Federal Aid (AIP) Project indicate Federal Project Number: _____

WORK ELEMENTS AND FUNDS REQUESTED (round funds to the nearest dollar)

Work Element	Total Estimated Cost	FAA Funds Proposed	Local Funds Committed	State Aid Requested
Land Acquisition - Runway 19 Runway Protection Zone	\$401,142	\$361,028	\$40,114	
TOTALS:	\$401,142	\$361,028	\$40,114	

I hereby certify that, to the best of my knowledge, the information in this application is true and correct and that the Sponsor's share will be available for expenditure upon execution of a State Grant Agreement.

Typed Name and Title: Paula Roach, Finance Director

Signature: *Paula Roach* Date: 2/14/13

**N.C. Department of Transportation - Division of Aviation
State Aid to Airports Program**

AIRPORT NAME Rutherford County Airport **Airport ID** FQD
Project Number 36237.20.13.1 **Vendor ID** 25143
Purchase Order Number

Projected Project Budget

No DBE/MBE/WBE/HUB Vendor Awards

Initial Budget
 Revised Budget

Initial and Revised Budget require approval by the NCDOT

 STATE AID TO AIRPORTS PROJECT
 STATE/FEDERAL BLOCK GRANT PROGRAM

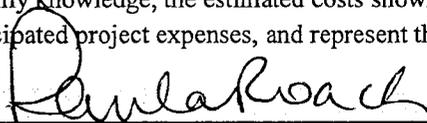
 STATE MATCH/AIP GRANT

Cat. Code	Category of Expenditure	Estimated Total Cost (round to nearest \$)
A 101	Administrative Expense	
A 102	Preliminary Engineering, Testing	
A 103	Land Acquisition, Structure/Utility Relocation	<u>\$401,142.00</u>
A 104	Engineering Services Basic Fees	
A 105	Project Inspection, Quality Assurance, Testing	
A 106	Construction and Project Improvement Cost	
A 107	Equipment (i.e. nav aids, fire trucks, etc.)	
A 108	Miscellaneous Expenses (specify)	
A 109	In Kind Match	
GRAND TOTAL ALL ESTIMATED EXPENSES		\$401,142.00

	Percent	
TOTAL ESTIMATED FEDERAL SHARE AT	<u>90.0%</u>	\$361,028.00
TOTAL ESTIMATED STATE SHARE AT		\$0.00
TOTAL ESTIMATED LOCAL SHARE AT	<u>10.0%</u>	\$40,114.00

SPONSOR CERTIFICATION

I certify that, to the best of my knowledge, the estimated costs shown above were derived from careful analysis of the project, include all anticipated project expenses, and represent the intended budget of the Sponsor for this project.



 Sponsor's Representative (signature)

Date 2/14/13

 Division of Aviation Approval (signature)

Date _____

E-mail this completed form to:

aviation_invoices@ncdot.gov

Print this completed form and mail it to:

NCDOT AVIATION, GRANTS ADMINSTRATOR
 1560 MAIL SERVICE CENTER
 RALEIGH NC 27699-1560

INITIAL BUDGET SUPPORTING DOCUMENTATION AS APPLICABLE

1. CONSULTING FEE - SCOPE OF WORK AND MANHOURL-TASK BREAKDOWN
2. ITEMIZED PRELIMINARY COST ESTIMATE
3. PRELIMINARY SHEET LIST



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

April 24, 2013

Mr. Bob Howard, Chairman
Rutherford County Airport Authority
289 N. Main Street
Rutherfordton, NC 28139

Dear Mr. Howard:

Enclosed are state airport aid grant agreements for the funding of your Block Grant/Non Primary Entitlement Project 36237.20.13.1 (Land Acquisition – Runway 19 RPZ). The appropriate governmental body must execute these agreements. Upon completion, both original copies of the agreement must be returned to this office. Please remember that all signatures and seals must be original and not reproduced copies. The Department will fill in the date on the first page of the agreement once the Secretary of Transportation signs the documents.

Please note the signature pages are pages 3 and 4 of the Agreement. Once the Department has executed the grant agreements, one copy will be returned to you for your files.

Should you have any questions, please do not hesitate to contact me or your Airport Project Manager Dion Viventi.

Sincerely,

Nancy C. Seigler
Grants Administrator

NCS/cae

Enclosures

OWNERS RPZ

224530580-20278
Dec 2012
Jun 7 2012
224530580-18-265
211028
130,000
361028
Grant
23448
16667
40115
mat

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
DIVISION OF AVIATION
1560 MAIL SERVICE CENTER
RALEIGH NC 27699-1560

TELEPHONE: 919-814-0550
FAX: 919-840-9267
NCDOT.GOV/AVIATION

LOCATION:
RDU AIRPORT
1050 MERIDIAN DRIVE
RDU NC 27623



RECEIVED JUN 19 2013

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

June 17, 2013

Ms. Paula Roach, Finance Director
Rutherford County finance Office
289 N. Main Street
Rutherfordton, NC 28139

Dear Ms. Roach:

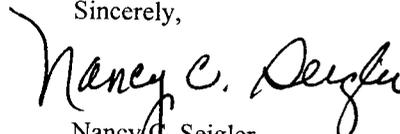
Enclosed is an executed copy of your Grant Agreement for State Aid to Airports Block Grant/Non Primary Entitlement Project 36237.20.13.1 (Land Acquisition-Runway 19 RPZ) which expires on July 1, 2014. The initial payment of this grant will be made upon the Department's acceptance of Form AV-503 (Project Concurrence and Notice to Proceed) and your submission of Form AV-505 (Request for Interim Payment) and Form AV-504 (Projected Project Budget) which were provided in your electronic workbook. Progress payments require the following items be accomplished:

- 1) Submission of Form AV-505 (Request for Interim Payment) with all appropriate information completed. Form AV-504 must conform to the information submitted on Form AV-505 before payments can be made.
- 2) The Grants Administrator recommends the Progress Payment after assuring that all current requirements of the Grant Agreement have been met.

Please remember the Grant Agreement requires this project be carried out in accordance with the terms of the Grant Agreement and the Program Guidance Handbook. This includes keeping the Division fully informed of progress on the project, notification of significant meetings, and submission of quarterly Project Status Reports (Form AV-502). Failure to adhere to these terms and conditions may be cause for cancellation of the grant. All necessary forms were included in the project workbook provided after approval of the allocation of funds.

Should you have any questions on the processing of project forms, please do not hesitate to contact your Airport Project Manager, Dion Viventi or myself.

Sincerely,


Nancy C. Seigler
Grants Administrator

NCS/cae

Enclosures

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
DIVISION OF AVIATION
1560 MAIL SERVICE CENTER
RALEIGH NC 27699-1560

TELEPHONE: 919-814-0550
FAX: 919-840-9267
NCDOT.GOV/AVIATION

LOCATION:
RDU AIRPORT
1050 MERIDIAN DRIVE
RDU NC 27623

BLOCK GRANT/NPE AGREEMENT

STATE AID TO AIRPORTS BLOCK GRANT
BETWEEN
THE N. C. DEPARTMENT OF TRANSPORTATION,
AN AGENCY OF THE STATE OF NORTH CAROLINA
AND
RUTHERFORD COUNTY AIRPORT AUTHORITY

AIRPORT: **RUTHERFORD COUNTY-
MARCHMAN FIELD**

PROJECT NO: **36237.20.13.1**

THIS AGREEMENT made and entered into this the 10th day of June, 2013, by and between the NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (hereinafter referred to as "Department") and the **RUTHERFORD COUNTY AIRPORT AUTHORITY**, the owner of the **RUTHERFORD COUNTY AIRPORT-MARCHMAN FIELD** (hereinafter referred to as "Sponsor").

WITNESSETH

WHEREAS, Chapter 63 of the North Carolina General Statutes authorizes the Department to administer a program of State Aid to Airports, subject to the limitations stated in that Chapter; and

WHEREAS, the Department has received the approval of the Federal Aviation Administration to administer certain Airport Improvement Program Funds in North Carolina under the provisions of the State Block Grant Program in accordance with Chapter 63-71; and the FAA Modernization and Reform Act of 2012; and

WHEREAS, the Department has approved a grant of funds to the Sponsor for State Block Grant and *Non Primary Entitlement* Program funds.

NOW THEREFORE, the Department and the Sponsor do hereby mutually agree as follows:

1) That the approved scope of this project shall consist of:

LAND ACQUISITION-RUNWAY 19 RPZ

2) That the Grant of funds shall include maximum funding obligations for federal funds which shall be:

State Block Grant Program: **\$361,028** (not to exceed **90%** of the final total costs)

3) That the funding obligations referenced in (2) above shall be the maximum obligations based on the final cost of eligible work items in the approved project, as certified by the Sponsor

4) That the Sponsor shall promptly undertake the Project and complete all work on the Project no later than the **1st** day of **JULY 2014**, unless a written extension of time is granted by the Department.

- 5) That all work performed on the Project shall conform to the approved scope of work referenced in this Agreement. Any amendments or modifications to the approved scope of work, approved grant amounts, or this Agreement shall not be authorized by the Department unless they are contained in a written modification to this Agreement and fully executed by both the Sponsor and the Department.

- 6) Debarment and Suspension: The Grantee agrees to comply, and assures the compliance by each of its third party contractors and subrecipients at any tier, with the provisions of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations on Debarment and Suspension at 49 C.F.R. Part 29.

- 7) The Sponsor certifies that it has adhered to all applicable laws, regulations, and procedures in the application for and Sponsor's approval of this Grant.

- 8) For a material breach of this Agreement or the Sponsor's Assurances, the Sponsor shall be liable to the Department for the return of all grant monies received.

- 9) The Sponsor agrees to adhere to the standards and procedures contained in the State Aid to Airports Program Guidance Handbook (third edition, dated January 1997), unless the Department issues a written waiver to the contrary.

- 10) The Sponsor agrees to adhere to and be bound by the Grant Assurances of the Federal Aviation Administration, said Grant Assurances contained in Appendix I of this Grant Agreement. Further, the Sponsor agrees that it shall be responsible to the Federal Aviation Administration, or its designated agent, for enforcement of such Grant Assurances including any penalties, sanctions, or other actions which may be legally enforceable for lack of compliance with said Grant Assurances.

- 11) The Sponsor agrees to comply with the "Sponsor Assurances" contained as part of this Agreement.

- 12) N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this grant agreement, you attest, for your entire organization and its employees or agents that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

IN WITNESS WHEREOF, THE PARTIES HERETO EXECUTED THIS GRANT AGREEMENT THE DAY AND YEAR FIRST WRITTEN ABOVE:

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION:

NCDOT SEAL

BY: [Signature]
Deputy Secretary for Transit

ATTEST: [Signature: Tracy C. Humphries]

SPONSOR:

Signed: [Signature: Bob Howard]

Title: Chairman, Airport Authority

SPONSOR SEAL

Attest: [Signature: Brooke Watson]

STATE OF NORTH CAROLINA, COUNTY OF Rutherford

I, Jeanette Bosgra, a Notary Public in and for the County and State aforesaid, do hereby

certify that Bob Howard personally came before me this day and

acknowledged that he is Chairman of the Rutherford County Airport Authority
(Title) (Sponsor)

(hereinafter referred to as "Sponsor" and by authority duly given and as an act of said Sponsor, the foregoing instrument was signed by him, attested by Brooke Watson, Secretary to Airport Authority of the Sponsor, and
(Name and Title)

Seal of the Sponsor affixed hereto.

WITNESS my hand and Notarial Seal, this the 20 day of May 2013

[Signature: Jeanette Bosgra]
Notary Public (Signature)

My Commission expires: 08/07/2015

SEAL

RESOLUTION

A motion was made by William Eckler, Vice Chairman
Eddie Holland, Commissioner and seconded by
Eddie Holland, Commissioner (Name and Title)
N/A - See Attorney Letter for the adoption of the following resolution, and upon being put to a
(Name and Title)

vote was duly accepted:

WHEREAS, a Grant in the amount of \$361,028 has been approved by the Department based on total estimated cost of \$401,142; and

WHEREAS, an amount equal to or greater than ten percent (10%) of the total estimated project cost has been appropriated by the Sponsor for this Project.

NOW THEREFORE, BE AND IT IS RESOLVED THAT THE Finance Director
(Title)

of the Sponsor be and he hereby is authorized and empowered to enter into a Grant Agreement with the Department, thereby binding the Sponsor to the fulfillment of its obligation incurred under this Grant Agreement or any mutually agreed upon modification thereof.

I Hazel Haynes, Clerk to the Board of the
(Name and Title)
Rutherford County Commissioners do hereby certify that
(Sponsor)

the above is a true and correct copy of an excerpt from the minutes of the
Rutherford County of a meeting
(Sponsor)

duly and regularly held on the 3rd day of June, 2012
December, 2012.

This, the 20 day of May, 2013.

SPONSOR SEAL

Signed: Hazel Haynes
Title: Clerk to the Board
Of The: Rutherford County Commissioners

LAW OFFICES OF RICHARD P. WILLIAMS, PLLC

RICHARD P. WILLIAMS
Attorney at law

349 North Main Street
Post Office Box 550
Rutherfordton, NC 28139

Telephone: 828-288-1844
Facsimile: 828-288-1840

May 22, 2013

MEMORANDUM

Re: Question regarding Rule 12 of the Rules of Procedure for Rutherford County Board of Commissioners ("County Rules"), regarding seconds to motions of the Board

VALIDITY OF RESOLUTIONS:

Each Resolution shown here is a valid action of the Board of Commissioners of Rutherford County and is binding upon the County. The Resolution for grant matching funds for 36237.20.13.1 was validly approved over two meetings: (1) on June 7, 2012, for \$16,667.00; and (2) on December 6, 2012, for \$23,447.00; for the total County match of \$40,114.00. Grant 36244.28.7.1 was approved on December 6, 2012, with a vote of four (4) Commissioners in favor, none opposed, and one validly excused from the vote.

DISCUSSION OF ISSUE OF SECONDS TO MOTION:

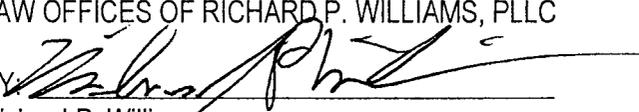
On June 7, 2012, and on December 3, 2012, **no second to any motion was required by the County Rules**, and, therefore, the Resolution regarding the Grant funds as stated herein was validly adopted by the Board on each date based on motion and vote of a majority of the Board, even if no second was made by any member of the Board.

Rule 12 of the County Rules, prior to March 4, 2013, stated in its entirety "A motion shall not require a second." Any motion was valid for discussion, vote, and potential passage by the Board without any second whatever. If a member of the Board happened to second a motion, it was superfluous and of no effect either to validate OR to invalidate the motion. As such, the vote of June 7, 2012, which references a second is perfectly valid as a resolution and action of the Board even though the second was unnecessary. Likewise, the vote of December 3, 2012, was also perfectly valid as a resolution and action of the Board even though a second is not recorded in the minutes. No second was required.

The Rules of Procedure for Rutherford County Board of Commissioners in their present form were based upon a publication of the Institute of Government (now known as the School of Government) at the University of North Carolina at Chapel Hill, entitled "Suggested Rules of Procedure for the Board of County Commissioners" by Joseph S. Ferrell, a member of the IOG's faculty. The suggested rule regarding seconds was not to require seconds for any board of commissioners since such boards were small in size.

Rule 12 was recently amended by vote of the Board of Commissioners at their regular meeting on March 4, 2013, and the revised Rule 12 does, in fact, require a second on motions of the Board. This in no way affects any vote prior to March 4, 2013, including the Resolutions referenced here.

LAW OFFICES OF RICHARD P. WILLIAMS, PLLC

BY 
Richard P. Williams
County Attorney
Rutherford County, North Carolina

SECTION A: SPONSOR'S ASSURANCES: GENERAL CONDITIONS

A-1. The Sponsor certifies that it holds fee simple title to the property on which this project is to be constructed. In the event any work is proposed on property which has an easement or lease in the Sponsor's name, the Sponsor agrees that it will comply with the Department's conditions and receive written approval prior to any construction on such lease or easements. This condition does not apply to planning projects.

A-2. The Sponsor agrees to operate the Airport for the use and benefit of the general public and shall not deny reasonable access to public facilities by the general public.

A-3. The Sponsor agrees to operate, maintain, and control the Airport in a safe and serviceable condition for a minimum of twenty (20) years following the date of this Agreement and shall immediately undertake, or cause to be undertaken, such action to correct safety deficiencies as may be brought to its attention by the Department.

A-4. The Sponsor agrees that any land purchased, facilities constructed, or equipment acquired under this Agreement shall not be sold, swapped, leased or otherwise transferred from the control of the Sponsor without written concurrence of the Department.

A-5. The Sponsor agrees that the state share of any land purchased, facilities constructed, or equipment acquired under this Agreement shall be credited to the Department in a manner acceptable to the Department in the event such land, facilities or equipment are subsequently disposed of through sale or lease.

A-6. Insofar as it is within its power and reasonable, the Sponsor shall, either by the acquisition and retention of property interest, in fee or easement, or by appropriate local zoning action, prevent the construction of any object which may constitute an obstruction to air navigation under the appropriate category of Federal Air Regulation Part 77, 14 CFR 77.

A-7. Insofar as it is within its power and reasonable, the Sponsor shall, 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 taking off of aircraft and the noise produced by such operations by adoption of zoning laws, by acquisition and the retention of property interest, in fee or easement.

A-8. Terminal building spaces constructed under this Grant Agreement shall be for the use of the general public. The Sponsor agrees that it will not use any space so constructed for private use, or charge fees for the use of such space, without the written approval of the Department.

SECTION B: SPONSOR'S ASSURANCES: PROJECT ADMINISTRATION

B-1. The Airport shall comply with all requirements of the State Aid to Airports Program Guidance Handbook (third edition, January 1997).

B-2. It is the policy of this State, to encourage and promote participation by disadvantaged minority owned and women owned businesses (MBE and WBE) in contracts let by the Department pursuant to GS 136-28.4 for the planning, design, preconstruction, construction, alteration, or maintenance of State transportation infrastructure construction, and in the procurement of materials for these projects. All State agencies, institutions, and political subdivisions shall cooperate with the Department of Transportation and among themselves in all efforts to conduct outreach and to encourage and promote the use of disadvantaged minority owned and women owned businesses in these contracts. This is designed to ensure minority MBEs and WBEs have maximum opportunity to participate in performance of NCDOT contracts let using state funding. The sponsor assures and certifies with respect to this grant that they will pursue these requirements as stipulated by the Department in the advertising, award and administration of all contracts, and require the same for all contractors, sub recipient or subcontractors.

MBE/WBE program is governed by G.S. 136-28.4 and administered in accordance with Title 19A Chapter 02 SubChapter D Section .1101 - .1112 of North Carolina Administrative Code (19A NCAC 02D.1101).

B-3. The Sponsor shall submit draft plans and specifications, or approved alternate, for the project for review by the Department prior to advertising for bids on the Project. Should bids not be required on the project, the Sponsor shall submit a detailed scope of work and estimated costs prior to requesting "Project Concurrence and Notice to Proceed" form (AV-CONCUR/AV-503) for undertaking the project. All plans (and alternate) shall be supported by engineer's report. A list of deliverable(s) from the Sponsor to the Department is as follows:

Planning Projects

1. Interim Planning Submittals – All Airport Layout Plan Sheets, Reports, Projections, Construction Cost Estimate, drawings, sketches and all other pertinent information – electronic copy: PDF format. Paper copy, if requested: bond copy – true half-size.
2. Final Submittal - All Airport Layout Plan Sheets, Reports, Projections, Construction Cost Estimate, drawings, sketches and all other pertinent information – electronic copies: PDF format and AutoCAD or MicroStation format - Paper copy: bond– true half-size for plan sheets / sketches
 - a. All reports, projections – PDF Format. Any element of the documents shall be delivered in its original electronic format (i.e. MSWord, Excel, AutoCAD...) if requested by the Department
 - b. Sketches and drawings – electronic copies: PDF format and AutoCAD or MicroStation format - Paper copy: bond – true half-size for plan sheets / sketches.

Construction Projects

1. Interim Design Submittals (i.e. 30%, 60%, 90%....) – Plan Sheets, Technical Specifications, Itemized Construction Cost Estimate and Engineers Report – electronic copy: PDF format. Paper copy, if requested: bond true half-size for plan sheets.
2. 100% Design and Issue for Bid Submittals – Plan Sheets, Technical Specifications, Itemized Construction Cost Estimate, Engineer's Report, and Bid Tab – Any element of the documents shall be delivered in electronic format (i.e. MS Excel and PDF format) and AutoCAD or MicroStation format and Paper copy: bond– true half-size for plan sheets.
3. As-built / Record Drawings
 - a. Contract Documents (Plan and Detail Sheets, Technical Specifications) – electronic copies: PDF format and AutoCAD or MicroStation format and Paper copy: bond– true half-size for plan sheets.
 - b. Technical Specifications – electronic copies: MS Word File and PDF format
 - c. Final Engineers Report – electronic copies: PDF format unless otherwise requested.

B-4. Bids will be taken in accordance with N. C. General Statute 143-129. Following bid opening or final contract negotiations, the Sponsor shall submit the "Project Concurrence and Notice to Proceed" (AV-CONCUR/AV-503) request along with the bid tabulations to the Department for review. The Department will take action on the request including the approval or disapproval of the Sponsor's Employment of specific contractors within ten (10) days of receipt. Approval will be communicated via a Contract Goal Requirements Letter sent directly to the Sponsor.

B-5. All contractor(s) who bid or submit proposals for contracts in connection with this project must submit a statement of non-collusion to the Sponsor.

B-6. The Sponsor shall not commence construction or award construction contracts on the project until a written "Project Concurrence and Notice to Proceed" (AV-CONCUR/AV-503) is co-signed by the Sponsor's Representative and the Department or alternate written approval is provided by the Department.

B-7. The Sponsor shall submit quarterly status reports (AV-STATUS/AV-502) to the Department, unless otherwise instructed, and will immediately notify the Department of any significant problems which are encountered in the completion of the project.

B-8. The Sponsor shall notify the Department of any significant meetings or inspections involving the Sponsor, his contractor(s), consultant(s), and/or federal funding agencies concerning Project.

B-9. The Sponsor shall notify the Department within thirty (30) days of completion of all work performed under this agreement for the purpose of final acceptance inspection and completion of audit requirements by the Department.

B-10. . The Sponsor has full responsibility for assuring the completed Project meets the requirements of the Department and appropriate federal funding agencies. The Sponsor further certifies that all local, state, and federal requirements for the conduct of this Project shall be met.

B-11. It is the policy of the Department not to award contracts to contractors who have been removed from the Department's list of pre-qualified bidders without subsequent reinstatement. Therefore, no State funds will be provided for any work performed by the contractor(s), or sub-contractor(s) which had been removed from the Department's list of pre-qualified bidders without subsequent reinstatement as of the date of the signing of the construction contract. It shall be the responsibility of Sponsor to insure that only properly qualified contractors are given construction contracts for work.

SECTION C: SPONSOR'S ASSURANCES: PROJECT ACCOUNTING AND PAYMENT

C-1. The Sponsor shall record all funds received under this Agreement and shall keep the same in an identifiable Project account. The Sponsor, and his contractor(s) and/or consultant(s), shall maintain adequate records and documentation to support all Project costs incurred under this Grant. All records and documentation in support of the Project costs must be identifiable as relating to the Project and must be acceptable costs only. Acceptable costs are defined as those costs which are acceptable under "Federal Acquisition Regulations 1-31.6, 48 CFR (OMC Circular A-87)". Acceptable items of work are those referenced in the State Aid to Airports Program Guidance Handbook and North Carolina General Statutes. The Sponsor's accounting procedures which were established for work as set out in this Agreement must be reviewed and accepted by the Department prior to the final execution of this Agreement and payment of State funds, except for Sponsor reporting under OMB Circular A-133.

C-2. The Sponsor and his contractor(s) and/or consultant(s) shall permit free access to its accounts and records by official representatives of the State of North Carolina. Furthermore, the Sponsor and contractor(s) and/or consultant(s) shall maintain all pertinent records and documentation for a period of not less than five (5) years from the date of final payment.

C-3. In accordance with OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations" (www.whitehouse.gov/wh/eop/omb), the Airport shall arrange for an independent financial and compliance audit of its fiscal operations. The Airport shall furnish the Department with a copy of the independent audit report within thirty (30) days of completion of the report, but not later than nine (9) months after the Airports fiscal year ends.

The Airport shall maintain all books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the Airport shall make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of final payment under this agreement, for inspection and audit by the Department's Fiscal Section

C-4. Payment of the funds obligated under this Grant Agreement shall be made in accordance with the following schedule, unless otherwise authorized by the Department:

A. Payments from NCDOT to the Sponsor are made on a reimbursement basis. The Sponsor must pay all contractors/vendors prior to or within 3 business days of receipt of the Department's reimbursement.

B. Payments will be made on the basis of progress payments which may be requested by the Sponsor as costs are incurred, but not more frequently than monthly. Progress payments will be made provided the following requirements have been met.:

(1) The Grant Agreement has been executed and a Project Concurrence (AV-CONCUR/AV-503) issued.

(2) The Project has received an appropriate environmental finding.

(3) The Sponsor has submitted a Proposed Project Budget (AV-BUDGET/AV-504) accurately reflecting costs to date. The initial and revised AV-BUDGET/AV-504 shall be approved by the Department. With each AV-BUDGET/AV-504, the Sponsor shall provide the following documentation:

a) Scope of Services for the project, Consultant Fee - Man-hours Breakdown by task with hourly rates, Breakdown of Sub-consultant and / or Vendor Cost, Schedule of Deliverables, Estimated Construction Cost, Plan Sheet List

b) Actual Bidding Cost (once a project is bid) – Bid Tabulation / Bid Schedule, Recommendation for Award.

(4) Additional information shall be provided as requested.

(5) The Sponsor has submitted an executed Interim Payment Request (AV-PAY/AV-505) accurately reflecting costs incurred to date.

(6) The Sponsor has complied with all applicable conditions of the State Aid to Airports Program Guidance Handbook

C. The submission of progress payments is expected to parallel the value of work actually completed and costs incurred. At such point the Sponsor has requested payments equaling 100% of the State Grant, it is expected that the approved Project will be 100% complete.

D. Upon receipt of 100% of the State Grant, the Sponsor will promptly complete Project acceptance and submit the Project Completion and Final Payment Request (AV-FINAL/AV-506).

C-5. If after the acceptance of the Project by the Department, the final State share of approved eligible items is less than the amount of State funds actually disbursed for the Project, the Sponsor shall reimburse the Department in an amount equal to the difference between the amount of State funds actually disbursed and the final State share of the final, audited, approved eligible Project costs within thirty (30) days of notification by the Department of the amount due.

C-6. . If after the acceptance of the Project by the Department, the final State share of approved eligible Project costs shall be more than the amount of State funds obligated for the Project, the Sponsor may make application to the Department for a corresponding increase which will be considered for funding in accordance with their relative priority versus other applications for available State funds.

C-7. Under certain conditions, projects originally involving only state and local funds may subsequently be eligible for reimbursement from federal funding agencies. In such cases, the Sponsor shall notify the Department of its intent to apply for federal reimbursement and shall keep the Department informed of the status of such application. In the event federal funds are obtained for all or a portion of the Project, the Sponsor shall refund to the Department an amount equal to the difference between State funds originally disbursed for the work item(s) subsequently receiving federal funds and the final State share of the costs of the affected item(s) of work. Reimbursement will be made within ninety (90) days of the date of the final execution of the FAA Grant Agreement affecting the work elements in the approved Project.

C-8. For the purpose of calculating the State share of the Project, federal funds are defined as funds provided by an agency of the federal government for the specific purpose of undertaking the Project, including Block Grant funds administered by the Department.

SECTION D: SPONSOR'S ASSURANCES: REAL PROPERTY ACQUISITION

D-1. The acquisition of land, buildings, and other real property involving the use of State Airport Aid funds shall be in compliance with the provisions of this Section.

D-2. The Sponsor shall depict each parcel to be acquired on an airport property map containing the identity of the parcel and its metes and bounds.

D-3. The acquisition cost of each parcel, building, or other real property acquired with State financial assistance shall be based on the fair market value of the property as determined by an appraisal process acceptable to the Department.

D-4. For each parcel or building with an estimated cost of \$100,000 or less, fair market value shall be established by a single original appraisal and a review appraisal. For complex acquisitions, fair market value shall be established by two original appraisals and one review appraisal.

D-5. All original and review appraisals shall be conducted by qualified appraisers who have no financial or other interest in the property to be acquired.

D-6. The fair market value of a parcel will be established by the review appraiser based upon the information contained in the original appraisal or appraisals.

D-7. No negotiation for property acquisition shall be commenced between the Sponsor and the property owner until the fair market value of the property has been established. Initial negotiations shall be based upon the fair market value.

D-8. Negotiated values above the fair market value shall not be eligible for State funds unless, prior to the final agreement for acquisition, the Sponsor has received the concurrence of the Department for paying such negotiated values in lieu of the appraised fair market value.

D-9. Sponsors who adhere to the federal "Uniform Guidelines for the Acquisition of Property" shall be deemed to have conformed to the Department's guidelines, except that Paragraph 8 above shall also be applicable under such acquisitions.

D-10. In the event the Project is a low value, non-complex acquisition, the Department, at its option, may accept the original appraisal without the review appraisal. In such cases, all other provisions of this Section shall apply.

D-11. Failure to follow the requirements of this Section shall disqualify the property from State participation for any parcel which has not been acquired in accordance with such standards.

SECTION E: Sponsor's Acknowledgement of Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32

E-1 Sponsor acknowledges and agrees that it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Revised 1/2/13

JUN 12 2013



Terms and Conditions of Accepting Airport Improvement Program Grants

This document was compiled from multiple government source documents.

This document contains the terms and conditions of accepting Airport Improvement Program (AIP) grants from the Federal Aviation Administration (FAA) for the purpose of carrying out the provisions of Title 49, United States Code. These terms and conditions become applicable when the Sponsor accepts a Grant Offer from the FAA that references this document. The FAA may unilaterally amend the terms and conditions by notification in writing, and such amendment will only apply to grants accepted after notification.

I. DEFINITIONS

- A. Sponsor—An agency that is legally, financially, and otherwise able to assume and carry out the certifications, representations, warranties, assurances, covenants and other obligations required in this document and in the accepted Grant Agreement.
- B. Project—Work as identified in this grant Agreement.
- C. Primary Airport—A commercial service airport the Secretary of Transportation determines to have more than 10,000 passengers boarding each year.
- D. "this grant" – In this document the term "this grant" refers to the applicable grant agreement or grant agreements that incorporate(s) these Terms and Conditions as part of the grant agreement.

II. CERTIFICATIONS

Title 49, United States Code, section 47105(d), authorizes the Secretary to require certification from the Sponsor that it will comply with statutory and administrative requirements in carrying out a project under the AIP. The following list of certified items includes major requirements for this aspect of project implementation. However, the list is not comprehensive, nor does it relieve sponsors from fully complying with all applicable statutory and administrative standards. In accepting this grant, the Sponsor certifies that each of the following items was or will be complied with in the performance of grant agreements. If a certification cannot be met for a specific project, the Sponsor must fully explain in an attachment to the project application.

- A. **Sponsor Certification for Selection of Consultants.** General standards for selection of consultant services within Federal grant programs are described in Title 49, Code of Federal Regulations (CFR), and Part 18.36. Sponsors may use other qualifications-based procedures provided they are equivalent to specific standards in 49 CFR 18 and Advisory Circular 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects.
 1. Solicitations were (will be) made to ensure fair and open competition from a wide area of interest.
 2. Consultants were (will be) selected using competitive procedures based on qualifications, experience, and disadvantaged enterprise requirements with the fees determined through negotiations.

3. A record of negotiations has been (will be) prepared reflecting considerations involved in the establishment of fees, which are not significantly above the Sponsor's independent cost estimate.
4. If engineering or other services are to be performed by Sponsor force account personnel, prior approval was (will be) obtained from the FAA.
5. The consultant services contracts clearly establish (will establish) the scope of work and delineate the division of responsibilities between all parties engaged in carrying out elements of the project.
6. Costs associated with work ineligible for AIP funding are (will be) clearly identified and separated from eligible items in solicitations, contracts, and related project documents.
7. Mandatory contact provisions for grant-assisted contracts have been (will be) included in consultant services contracts.
8. The cost-plus-percentage-of-cost methods of contracting prohibited under Federal standards were not (will not be) used.
9. If the services being procured cover more than the single grant project referenced in this certification, the scope of work was (will be) specifically described in the advertisement; and future work will not be initiated beyond five years.

B. Sponsor Certification for Project Plans and Specifications. AIP standards are generally described in Advisory Circulars 150/5100-6, Labor Requirements for the Airport Improvement Program; 150/5100-15, Civil Rights Requirements for the Airport Improvement Program; and 150/5100-16, Airport Grant Assurance One—General Federal Requirements. A list of current advisory circulars with specific standards for design or construction of airports, as well as procurement/installation of equipment and facilities; is referenced in standard airport sponsor Grant Assurance 34 in this document.

1. The plans and specifications were (will be) prepared in accordance with applicable Federal standards and requirements; so no deviation or modification to standards set forth in the advisory circulars, or State standard, is necessary other than those previously approved by the FAA.
2. Specifications for the procurement of equipment are not (will not be) proprietary or written so as to restrict competition. At least two manufacturers can meet the specifications.
3. The development included (to be included) in the plans is depicted on the airport layout plan approved by the FAA.
4. Development that is ineligible for AIP funding has been (will be) omitted from the plans and specifications or otherwise identified to assure that no reimbursement will be made for the cost of the ineligible item(s).
5. The process control and acceptance tests required for the project by standards contained in Advisory Circular 150/5370-10 are (will be) included in the project specifications.
6. If a value engineering clause is incorporated into the contract, concurrence was (will be) obtained from the FAA.
7. The plans and specifications incorporate (will incorporate) applicable requirements and recommendations set forth in the Federally approved environmental finding.
8. For construction activities within or near aircraft operational areas, the requirements contained in Advisory Circular 150/5370-2 have been (will be) discussed with the FAA, as well as incorporated into the specifications; and a safety/phasing plan has FAA's concurrence, if required.

9. The project was (will be) physically completed without Federal participation in costs due to errors and omissions in the plans and specifications that were foreseeable at the time of project design.

C. **Sponsor Certification for Equipment/Construction Contracts.** General standards for equipment and construction contracts within Federal grant programs are described in Title 49, CFR, Part 18.36. AIP standards are generally described in FAA Advisory Circular (AC) 150/5100-6, Labor Requirements for the Airport Improvement Program; 150/5100-15, Civil Rights Requirements for the Airport Improvement Program; and 150/5100-16, Airport Grant Assurance One—General Federal Requirements. Sponsors may use State and local procedures provided procurements conform to these Federal standards.

1. A code or standard of conduct is (will be) in effect governing the performance of the Sponsor's officers, employees, or agents in soliciting and awarding procurement contracts.
2. Qualified personnel are (will be) engaged to perform contract administration, engineering supervision, construction inspection, and testing.
3. Unless the FAA approved (has approved) otherwise, the procurement was (will be) publicly advertised using the competitive sealed bid method of procurement.
4. The bid solicitation clearly and accurately describes (will describe):
 - a. The current Federal wage rate determination for all construction projects; and
 - b. All other requirements of the equipment and/or services to be provided.
5. Concurrence was (will be) obtained from FAA prior to contract award under any of the following circumstances:
 - a. Only one qualified person/firm submits a responsive bid;
 - b. The contract is to be awarded to other than the lowest responsible bidder;
 - c. Life cycle costing is a factor in selecting the lowest responsive bidder; or
 - a. Proposed contract prices are more than 10 percent over the Sponsor's cost estimate.
6. All contracts exceeding \$100,000 require (will require) the following provisions:
 - a. A bid guarantee of 5 percent, a performance bond of 100 percent, and a payment bond of 100 percent;
 - b. Conditions specifying administrative, contractual, and legal remedies, including contract termination, for those instances in which contractors violate or breach contract terms; and
 - c. Compliance with applicable standards and requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), and Executive Order 11738.
7. All construction contracts contain (will contain) provisions for:
 - a. Compliance with the Copeland "Anti-Kick Back" Act; and
 - b. Preference given in the employment of labor (except in executive, administrative, and supervisory positions) to honorably discharged Vietnam-era veterans and disabled veterans.
8. All construction contracts exceeding \$2,000 contain (will contain) the following provisions:
 - a. Compliance with the Davis-Bacon Act based on the current Federal wage rate determination; and
 - b. Compliance with the Contract Work Hours and Safety Standards Act (40 USC 327-330), Sections 103 and 107.
9. All construction contracts exceeding \$10,000 contain (will contain) appropriate clauses from 41 CFR Part 60 for compliance with Executive Orders 11246 and 11375 on Equal Employment Opportunity.

10. All contracts and subcontracts contain (will contain) clauses required from Title VI of the Civil Rights Act and 49 CFR 23 and 49 CFR 26 for Disadvantaged Business Enterprises.
11. Appropriate checks have been (will be) made to assure that contracts or subcontracts are not awarded to those individuals or firms suspended, debarred, or voluntarily excluded from doing business with any U.S. Department of Transportation (DOT) element and appearing on the DOT Unified List.

D. Sponsor Certification for Real Property Acquisition. General requirements on real property acquisition and relocation assistance are in Title 49, CFR, Part 24 and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act).

1. The Sponsor's attorney or other official has (will have) good and sufficient title and title evidence on property in the project.
2. If defects and/or encumbrances exist in the title that adversely impact the Sponsor's intended use of property in the project, they have been (will be) extinguished, modified, or subordinated.
3. If property for airport development is (will be) leased, the following conditions have been (will be) met:
 - a. The term is for 20 years or the useful life of the project;
 - b. The lessor is a public agency; and
 - c. The lease contains no provisions that prevent full compliance with this grant agreement.
4. Property in the project is (will be) in conformance with the current Exhibit "A" property map, which is based on deeds, title opinions, land surveys, the approved airport layout plan, and project documentation.
5. For any acquisition of property interest in noise sensitive approach zones and related areas, property interest was (will be) obtained to ensure land is used for purposes compatible with noise levels associated with operation of the airport.
6. For any acquisition of property interest in runway protection zones and areas related to 14 CFR 77 surfaces, property interest was (will be) obtained for the following:
 - a. The right of flight;
 - b. The right of ingress and egress to remove obstructions; and
 - c. The right to restrict the establishment of future obstructions.
7. Appraisals prepared by qualified real estate appraisers hired by the Sponsor include (will include) the following:
 - a. Valuation data to estimate the current market value for the property interest acquired on each parcel; and
 - b. Verification that an opportunity has been provided the property owner or representative to accompany appraisers during inspections.
8. Each appraisal has been (will be) reviewed by a qualified review appraiser to recommend an amount for the offer of just compensation, and the written appraisals and review appraisal are (will be) available to FAA for review.
9. A written offer to acquire each parcel was (will be) presented to the property owner for not less than the approved amount of just compensation.
10. Effort was (will be) made to acquire each property through the following negotiation procedures:
 - a. No coercive action was (will be) taken to induce agreement; and

- b. Supporting documents for settlements are (will be) included in the project files.
11. If a negotiated settlement is not reached, the following procedures were (will be) used:
 - a. Condemnation was (will be) initiated and a court deposit not less than the just compensation was (will be) made prior to possession of the property; and
 - b. Supporting documents for awards were (will be) included in the project files.
 12. If displacement of persons, businesses, farm operations, or non-profit organizations is involved, a relocation assistance program was (will be) established, with displaced parties receiving general information on the program in writing, including relocation eligibility, and a 90-day notice to vacate.
 13. Relocation assistance services, comparable replacement housing, and payment of necessary relocation expenses were (will be) provided within a reasonable time period for each displaced occupant in accordance with the Uniform Act.
- E. Sponsor Certification for Construction Project Final Acceptance.** General requirements for final acceptance and closeout of Federally funded construction projects are in Title 49, CFR, Part 18.50. The Sponsor shall determine that project costs are accurate and proper in accordance with specific requirements of this grant Agreement and contract documents.
1. The personnel engaged in project administration, engineering supervision, construction inspection, and testing were (will be) determined to be qualified as well as competent to perform the work.
 2. Daily construction records were (will be) kept by the resident engineer/construction inspector as follows:
 - a. Work in progress
 - b. Quality and quantity of materials delivered
 - c. Test locations and results
 - d. Instructions provided the contractor
 - e. Weather conditions
 - f. Equipment use
 - g. Labor requirements
 - h. Safety problems
 - i. Changes required.
 3. Weekly payroll records and statements of compliance were (will be) submitted by the prime contractor and reviewed by the Sponsor for Federal labor and civil rights requirements (Advisory Circulars 150/5100-6 and 150/5100-15).
 4. Complaints regarding the mandated Federal provisions set forth in the contract documents have been (will be) submitted to the FAA.
 5. All tests specified in the plans and specifications were (will be) performed and the test results documented as well as made available to the FAA.
 6. For any test results outside of allowable tolerances, appropriate corrective actions were (will be) taken.
 7. Payments to the contractor were (will be) made in compliance with contract provisions as follows:
 - a. Payments are verified by the Sponsor's internal audit of contract records kept by the resident engineer; and
 - b. If appropriate, pay reduction factors required by the specifications are applied in computing final payments; and a summary of pay reductions are made available to the FAA.

8. The project was (will be) accomplished without significant deviations, changes, or modifications from the approved plans and specifications, except where approval is obtained from the FAA.
 9. A final project inspection was (will be) conducted with representatives of the Sponsor and the contractor, and project files contain (will contain) documentation of the final inspection.
 10. Work in this grant agreement was (will be) physically completed, and corrective actions required as a result of the final inspection are completed to the satisfaction of the Sponsor.
 11. If applicable, the as-built plans, an equipment inventory, and a revised airport layout plan have been (will be) submitted to the FAA.
 12. Applicable close out financial reports have been (will be) submitted to the FAA.
- F. **Sponsor Certification for Seismic Design and Construction.** 49 CFR Part 41 sets forth the requirements in the design and construction of the building(s) to be financed with the assistance of the FAA. Compliance will be met by adhering to at least one of the following accepted standards:
1. Model codes found to provide a level of seismic safety substantially equivalent to that provided by use of the 1988 National Earthquake Hazards Reduction Program (NEHRP) including:
 - a. The 1991 International Conference of Building Officials (IBCO) Uniform Building Code, published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601;
 - b. The 1992 Supplement to the Building Officials and Code Administration International (BOCA) National Building Code, published by the Building Officials and Code Administrators, 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795; and
 - c. The 1992 Amendments to the Southern Building Code Congress (SBCC) Standard Building Code, published by the Southern Building Code Congress International, 900 Montclair Road, Birmingham, Alabama 35213-1206.
 2. Revisions to the model codes listed above that are substantially equivalent or exceed the then current or immediately preceding edition of the NEHRP recommended provisions, as it is updated, may be approved by the DOT Operating Administration to meet the requirements of 49 CFR Part 41.
 3. State, county, local, or other jurisdictional building ordinances adopting and enforcing the model codes, listed above, in their entirety, without significant revisions or changes in the direction of less seismic safety, meet the requirement of 49 CFR Part 41.
- G. **Sponsor Certification for Drug-Free Workplace.** General requirements on the drug-free workplace within Federal grant programs are described in Title 49, CFR, Part 29 and the Drug-Free Workplace Act of 1988. Sponsors are required to certify they will provide, or will continue to provide, a drug-free workplace in accordance with the regulation.
1. A statement has been (will be) published notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Sponsor's workplace, and specifying the actions to be taken against employees for violation of such prohibition.
 2. An ongoing drug-free awareness program has been (will be) established to inform employees about:
 - a. The dangers of drug abuse in the workplace;
 - b. The Sponsor's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and

- d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
3. Each employee to be engaged in the performance of the work has been (will be) given a copy of the statement required within item 1 above.
4. Employees have been (will be) notified in the statement required by item 1 above that, as a condition of employment under this grant, the employee will:
 - a. Abide by the terms of the statement; and
 - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
5. The FAA will be notified in writing within ten calendar days after receiving notice under item 4b above from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title of the employee, to the FAA. Notices shall include the project number of each affected grant.
6. One of the following actions will be taken within 30 calendar days of receiving a notice under item 4b above with respect to any employee who is so convicted:
 - a. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - b. Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
7. A good faith effort will be made to continue to maintain a drug-free workplace through implementation of items 1 through 6 above.

III. GENERAL CONDITIONS

- A. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration under Title 49 U.S.C.
- B. Payment of the United States' share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs, and settlement will be made for any upward or downward adjustments to the Federal share of costs.
- C. The Sponsor shall carry out and complete the Project(s) without undue delays and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe.
- D. The FAA reserves the right to unilaterally terminate this grant if the Sponsor does not make at least one draw down of funds under their Letter of Credit or submit at least one written Request for Reimbursement, as applicable, in each twelve month period after grant acceptance.
- E. The Sponsor agrees to monitor progress on the work to be accomplished by this grant. For engineering services, the Sponsor agrees to make payment only for work that has been satisfactorily completed and that ten percent (10%) of the total value of the engineering services contract will not be paid to the Engineer until acceptable final project documentation is provided.
- F. The Sponsor agrees to submit final grant closeout documents to the FAA within 60 days after physical completion of the project(s), but no greater than four (4) years from the date of the grant, unless otherwise agreed to by the FAA.
- G. The FAA reserves the right to amend or withdraw this grant offer at any time prior to its acceptance by the Sponsor.

- H. This grant offer will expire, and the United States shall not be obligated to pay any part of the costs of the project unless this grant offer has been accepted by the Sponsor on or before 30 days after this grant offer but no later than September 30 of the federal fiscal year this grant offer was made, or such subsequent date as may be prescribed in writing by the FAA.
- I. The Sponsor shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or disbursed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. It shall obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. It shall return the recovered Federal share, including funds recovered by settlement, order or judgment, to the Secretary. It shall furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the Secretary.
- J. The United States shall not be responsible or liable for damage to property or injury to persons that may arise from, or be incident to, compliance with this grant agreement.
- K. If, during the life of the project, the FAA determines that this grant amount exceeds the expected needs of the Sponsor by \$5,000 or five percent (5%), whichever is greater, this grant amount can be unilaterally reduced by letter from FAA advising of the budget change. Conversely, with the exception of planning projects, if there is an overrun in the eligible project costs, FAA may increase this grant to cover the amount of the overrun not to exceed the statutory fifteen (15%) percent limitation for primary airports or either by not more than fifteen percent (15%) of the original grant amount or by an amount not to exceed twenty-five percent (25%) of the total increase in allowable project costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding for non-primary airports. FAA will advise the Sponsor by letter of the increase. Planning projects will not be increased above the planning portion of the maximum obligation of the United States shown in this grant agreement. Upon issuance of either of the aforementioned letters, the maximum obligation of the United States is adjusted to the amount specified. In addition, the Sponsor's officially designated representative, is authorized to request FAA concurrence in revising the project description and grant amount within statutory limitations. A letter from the FAA concurring in the said requested revision to the project work description and grant amount shall constitute an amendment to this Grant Agreement.
- L. **Electronic Grant Payment(s):** The requirements set forth in these terms and conditions supersede previous financial invoicing requirements for FAA grantees. Each payment request under this grant agreement must be made electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees. The following are the procedures for accessing and utilizing the Delphi eInvoicing System.
1. Grant Recipient Requirements.
 - a. Grantees must have Internet access to register and submit payment requests through the Delphi eInvoicing system unless, under limited circumstances, a waiver is granted by the FAA and DOT under section (c) below.
 - b. Grantees must submit payment requests electronically and the FAA will process payment requests electronically.
 2. System User Access.
 - a. Grantees must contact the FAA Airports District/Regional Office and officially submit a written request to sign up for the system. The FAA Office of Airports will provide the grantee's name, email address and telephone number to the DOT Financial Management Office. The DOT will then invite the grantee via email to sign up for the

system and require the grantee to complete two forms. The grantee will complete a web based DOT registration form and download the Proof of Identification form to verify the grantee's identity.

- b. The grantee must complete the Proof of Identification form, and present it to a Notary Public for verification. The grantee will return the notarized form to:
DOT Enterprise Services Center
FAA Accounts Payable, AMZ-100
PO Box 25710
Oklahoma City, OK 73125
- c. The DOT will validate the both forms and email a user ID and password to the grantee. Grantees should contact the FAA Airports District/Regional Office with any changes to their system information.
Note: Additional information, including access forms and training materials, can be found on the DOT eInvoicing website (<http://www.dot.gov/cfo/delphi-einvoicing-system.html>).

3. Waivers.

- a. DOT Financial Management officials may, on a case by case basis, waive the requirement to register and use the electronic grant payment system based on user requests and concurrence of the FAA. Waiver request forms can be obtained on the DOT eInvoicing website (<http://www.dot.gov/cfo/delphi-einvoicing-system.html>) or by contacting the FAA Airports District/Regional Office. Recipients must explain why they are unable to use or access the Internet to register and enter payment requests.
 - b. All waiver requests should be sent to the FAA Airports District/Regional Office for concurrence, prior to sending to the Director of the Office of Financial Management, US Department of Transportation, Office of Financial Management, B-30, room W93-431, 1200 New Jersey Avenue SE, Washington DC 20590-0001, DOTElectronicInvoicing@dot.gov. The Director of the DOT Office of Financial Management will confirm or deny the request within approximately 30 days.
 - c. If a grantee is granted a waiver, the grantee should submit all hard-copy invoices directly to:
DOT/FAA
PO Box 25082
AMZ-110
Oklahoma City, OK 73125
- M. Unless otherwise approved by the FAA, it will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for airport development or noise compatibility for which funds are provided under this grant. The Sponsor will include in every contract a provision implementing this condition.

N. **Central Contractor Registration and Universal Identifier Requirements**

1. *Requirement for Central Contractor Registration (CCR)*

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

2. Requirement for Data Universal Numbering System (DUNS) Numbers

If you are authorized to make subawards under this award, you:

- a. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
- b. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

3. Definitions

For purposes of this award term:

- a. *Central Contractor Registration (CCR)* means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).
 - b. *Data Universal Numbering System (DUNS) number* means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
 - c. *Entity*, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
 - 1) A Governmental organization, which is a State, local government, or Indian Tribe;
 - 2) A foreign public entity;
 - 3) A domestic or foreign nonprofit organization;
 - 4) A domestic or foreign for-profit organization; and
 - 5) A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
 - d. *Subaward*:
 - 1) This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - 2) The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. 210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations"). A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
 - e. *Subrecipient* means an entity that:
 - 1) Receives a subaward from you under this award; and
 - 2) Is accountable to you for the use of the Federal funds provided by the subaward.
 - 3) A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
- O. If this grant agreement includes pavement work that equals or exceeds \$250,000, the Sponsor will perform the following:
1. Furnish a construction management program to FAA prior to the start of construction which shall detail the measures and procedures to be used to comply with the quality control provisions of the construction contract, including, but not limited to, all quality control

- provisions and tests required by the Federal specifications. The program shall include as a minimum:
- a. The name of the person representing the Sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract.
 - b. Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided.
 - c. Procedures for determining that testing laboratories meet the requirements of the American Society of Testing Materials standards on laboratory evaluation, referenced in the contract specifications (D3666, C1077).
 - d. Qualifications of engineering supervision and construction inspection personnel.
 - e. A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test.
 - f. Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, that the proper corrective actions, where necessary, are undertaken.
2. Submit at completion of the project, a final test and quality control report documenting the results of all tests performed, highlighting those tests that failed or did not meet the applicable test standard. The report shall include the pay reductions applied and reasons for accepting any out-of-tolerance material. An interim test and quality control report shall be submitted, if requested by the FAA.
 3. Failure to provide a complete report as described in paragraph 2, or failure to perform such tests, shall, absent any compelling justification, result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction shall be at the discretion of the FAA and will be based on the type or types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under this grant agreement.
 4. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that Sponsor tests results are inaccurate.
- P. For a project to replace or reconstruct pavement at the airport, the Sponsor shall implement an effective airport pavement maintenance management program as is required by Airport Sponsor Assurance Number 11. The Sponsor shall use such program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport. As a minimum, the program must conform with the following provisions:

Pavement Maintenance Management Program

An effective pavement maintenance management program is one that details the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed. An airport sponsor may use any form of inspection program it deems appropriate. The program must, as a minimum, include the following:

1. **Pavement Inventory.** The following must be depicted in an appropriate form and level of detail:
 - a. Location of all runways, taxiways, and aprons;
 - b. Dimensions;
 - c. Type of pavement, and;
 - d. Year of construction or most recent major rehabilitation.

For compliance with the Airport Improvement Program (AIP) assurances, pavements that have been constructed, reconstructed, or repaired with federal financial assistance shall be so depicted.

2. Inspection Schedule.

a. **Detailed Inspection.** A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available; i.e., Pavement Condition Index (PCI) survey as set forth in Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," the frequency of inspections may be extended to three years.

b. **Drive-By Inspection.** A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition.

3. Record Keeping. Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The types of distress, their locations, and remedial action, scheduled or performed, must be documented. The minimum information to be recorded is listed below:

a. Inspection date;

b. Location;

c. Distress types; and

d. Maintenance scheduled or performed.

For drive-by inspections, the date of inspection and any maintenance performed must be recorded.

4. Information Retrieval. An airport Sponsor may use any form of record keeping it deems appropriate, so long as the information and records produced by the pavement survey can be retrieved to provide a report to the FAA as may be required.

5. Reference. Refer to Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," for specific guidelines and procedures for maintaining airport pavements and establishing an effective maintenance program. Specific types of distress, their probable causes, inspection guidelines, and recommended methods of repair are presented.

Q. Takeover of Instrument Landing System and Associated Equipment in Project. If this grant includes an instrument landing system and associated equipment and the FAA has agreed to takeover the system and equipment, the Sponsor must check the facility prior to its commissioning to assure it meets the operational standards. The Sponsor must also remove, relocate, or lower each obstruction on the approach, or provide for the adequate lighting or marking of the obstruction if any aeronautical study conducted under FAR part 77 determines that to be acceptable, and mark and light the runway, as appropriate.

R. Airport-Owned Visual or Electronic NAVAIDS In Project. If this grant includes a visual or electronic navigational aid, the Sponsor must provide for the continuous operation and maintenance of any navigational aid funded under the AIP during the useful life of the equipment and check the facility prior to its commissioning to assure it meets the operational standards. The Sponsor must also remove, relocate, or lower each obstruction on the approach or provide for the adequate lighting or marking of the obstruction if any aeronautical study conducted under FAR Part 77 determines that to be acceptable, and mark and light the runway, as appropriate. The FAA will not take over the ownership, operation, or maintenance of any sponsor-acquired equipment other than an AIP-funded instrument landing system and associated equipment where FAA agrees to take over the system and equipment.

S. Non-AIP Work in Application. It is understood and agreed by and between the parties hereto that notwithstanding the fact that a Project Application may include therein the construction of work not included in this grant agreement project description, said work shall not be a part of this project and, if or to the extent accomplished by the Sponsor, such accomplishment shall be without any participation in the costs thereof by the United States under this project. It is further understood and agreed that, in the event the work which is excluded from the project is

accomplished by the Sponsor, the Sponsor shall maintain as a portion of the cost records covering this project, separable cost records pertaining to the above-identified work excluded from Federal participation under this project, which records shall be made available for inspection and audit by the FAA to the end that the cost of the excluded work may be definitely determined.

It is further understood and agreed that the Sponsor will submit a Program Statement/cost estimate depicting the excluded costs or a cost estimate depicting only those costs eligible for Federal participation in this project.

- T. **Utility Relocation in Project.** It is understood and agreed by and between the parties hereto that the United States shall not participate in the cost of any utility relocation unless and until the Sponsor has submitted evidence satisfactory to the FAA that the Sponsor is legally responsible for payment of such costs. FAA participation will be limited to those utilities located on private right-of-way or utilities that exclusively serve the Airport.
- U. **Revenue from Real Property – Land in Project.** The Sponsor agrees that all net revenues produced from real property purchased in part with Federal funds in this grant shall be used on the airport for airport planning, development or operating expenses, except that all income from real property purchased for noise compatibility purposes or for future aeronautical use be used only to fund projects which would be eligible for grants under the Act. Income from noise or future use property may not be used for the Sponsor's matching share of any airport grant. Airport fiscal and accounting records shall clearly identify actual sources and uses of these funds.
- V. **Future Development Land.** If this grant includes acquisition of land for future development, the Sponsor agrees to implement within five years of such grant the airport development that requires this land acquisition, unless the FAA agrees to a different duration. Furthermore, the Sponsor agrees not to dispose of the land by sale or lease without prior consent and approval of the FAA. In the event the land is not used within ten years for the purpose for which it was acquired, the Sponsor will refund the Federal share of acquisition cost or the current fair market value of the land, whichever is greater, unless the FAA agrees to a different duration.
- W. **Runway Protection Zones.** The Sponsor agrees to take the following actions to maintain and/or acquire a property interest, satisfactory to the FAA, in the Runway Protection Zones:
1. **Existing Fee Title Interest in the Runway Protection Zone:** The Sponsor agrees to prevent the erection or creation of any structure or place of public assembly in the Runway Protection Zone, except for NAVAIDS that are fixed by their functional purposes or any other structure approved by the FAA. Any existing structures or uses within the Runway Protection Zone will be cleared or discontinued unless approved by the FAA.
 2. **Existing Easement Interest in the Runway Protection Zone:** The Sponsor agrees to take any and all steps necessary to ensure that the owner of the land within the designated Runway Protection Zone will not build any structure in the Runway Protection Zone that is a hazard to air navigation or which might create glare or misleading lights or lead to the construction of residences, fuel handling and storage facilities, smoke generating activities, or places of public assembly, such as churches, schools, office buildings, shopping centers, and stadiums.
 3. **Future Interest in the Runway Protection Zone:** The Sponsor agrees that it will acquire fee title or less-than-fee interest in the Runway Protection Zones that presently are not under its control under an agreed schedule with the FAA. Said interest shall provide the protection noted in above Subparagraphs 1 and 2.
- X. **Noise Projects on Privately Owned Property.** No payment shall be made under the terms of this grant agreement for work accomplished on privately owned land until the Sponsor submits the agreement with the owner of the property required by Assurance 5d of the *ASSURANCES Airport Sponsors*, and such agreement is determined to be satisfactory. As a minimum, the agreement with the private owner must contain the following provisions:
1. The property owner shall subject the construction work on the project to such inspection and approval during the construction or installation of the noise compatibility measures and after

- completion of the measures as they may reasonably be requested by the Secretary or the Sponsor.
2. The property owner shall assume the responsibility for maintenance and operation of the items installed, purchased, or constructed under this grant agreement. Neither the FAA nor the Sponsor bears any responsibility for the maintenance and operation of these items.
 3. If Federal funds for the noise compatibility measures are transferred by the Sponsor to the owner of the private property, or the owner's agent, the property owner shall agree to maintain and make available to the Secretary or the Sponsor, upon reasonable request, records disclosing the amount of funds received and the disposition of those funds.
 4. The property owner's right to sue the owner of the noise-impacting Airport for adverse noise impacts will be abrogated if the property owner deliberately or willfully acts to reduce or destroy the effectiveness of the noise compatibility measures during the useful life of such measures. This obligation shall remain in effect throughout the useful life of the noise compatibility measures, but not to exceed 20 years from the date of the Sponsor's acceptance of federal aid for the project.
- Y. **Update Approved Exhibit "A" For Land in Project.** It is understood and agreed by and between the parties hereto that notwithstanding the fact that this grant offer is made and accepted upon the basis of the current Exhibit "A" Property Map, the Sponsor hereby covenants and agrees that upon completion of an AIP funded land acquisition project, it will update said Exhibit "A" Property Map to standards satisfactory to the FAA and submit said documentation in final form to the FAA. It is further mutually agreed that the reasonable cost of developing said Exhibit "A" Property Map is an eligible administrative cost for participation within the scope of this project.
- Z. **Friction Measuring Devices.** If this grant includes acquisition of friction measuring devices, the Sponsor assures that it will properly calibrate, operate, and maintain the friction measuring equipment in accordance with the manufacturer's guidelines and instructions and Advisory Circular 150/5320-12. The friction measuring equipment and tow vehicle (if applicable) shall not be used for any other purpose other than for conducting friction measuring tests on airport pavement surfaces and directly related activities, such as training and calibration.
- AA. **Low Emission Systems.** If this grant includes low emission systems work, the Sponsor agrees to the following conditions under the Voluntary Airport Low Emission (VALE) program:
1. Vehicles and equipment purchased with assistance from this grant shall be maintained and used for their useful life at the airport for which they were purchased. Moreover, any vehicles or equipment replaced under this program shall not be transferred to another airport or location within the same or any other nonattainment or maintenance area. No airport-owned vehicles or equipment may be transferred to, taken to, or used at another airport without the consent of the FAA in consultation with the United States Environmental Protection Agency and State air quality agency.
 2. All vehicles and equipment purchased with assistance from this grant shall be clearly labeled using the VALE program emblem designed by the FAA.
 3. The Sponsor shall maintain annual reporting records of all vehicles and equipment purchased with assistance from this grant. These public records shall contain detailed information involving individual vehicles and equipment, project expenditures, cost effectiveness, and emission reductions.

The Sponsor certifies that it shall replace any disabled or seriously damaged vehicle or equipment purchased with assistance from this grant, at any time during its useful life, with an equivalent vehicle or unit that produces an equal or lower level of emissions. The Sponsor assumes all financial responsibility for replacement costs. The Sponsor also certifies that it shall fulfill this replacement obligation, beyond the useful life of the affected vehicle or equipment, for the possible longer life of Airport Emission Reduction Credits that were granted to the Sponsor for this vehicle or equipment.

IV. ASSURANCES

The following FAA document titled *ASSURANCES Airport Sponsors*, dated April 2012, is incorporated as part of these Terms and Conditions:

Assurances

Airport Sponsors

April 2012

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 Opportunity¹
- 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 Construction¹
- 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 non-aviation 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, 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, 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 Required for Use in AIP Funded and PFC Approved 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.



RECEIVED JUL 22 2013

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

July 15, 2013

Ms. Paula Roach, Finance Director
Rutherford County Finance Office
289 N. Main Street
Rutherfordton, NC 28139

Dear Ms. Roach:

Enclosed is an executed copy of Form AV-CONCUR (AV-503) "Project Concurrence" for your State Aid to Airports Project 36237.20.13.1 (Land Acquisition – R/W 19 RPZ) for the Rutherford County Airport. You are now authorized to begin work on this project. You are reminded that the project must be carried out in accordance with the terms and conditions of the grant agreement (including State Assurances and FAA Grant Assurances if applicable). The initial payment of this grant will be based on work accomplished and submitted on Form AV-505 "Request for Interim Payment".

Should you have any questions or comments, please contact, your Airport Project Manager Dion Viventi or myself.

Sincerely,

Nancy C. Seigler
Nancy C. Seigler
Grants Administrator

NCS/cae

Enclosure

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
DIVISION OF AVIATION
1560 MAIL SERVICE CENTER
RALEIGH NC 27699-1560

TELEPHONE: 919-814-0550
FAX: 919-840-9267

NCDOT.GOV/AVIATION

LOCATION:
RDU AIRPORT
1050 MERIDIAN DRIVE
RDU NC 27623

N.C. Department of Transportation - Division of Aviation
State Aid to Airports Program

Airport Name Rutherford County-Marchman Field Airport ID FQD
Project Number 36237.20.13.1 Purchase Order # 5700010006 Vendor ID 25143

Project Concurrence and Notice to Proceed

Sponsor Request

(Sponsor Completes This Section)

1. Type of Project: Planning Construction Other (Specify) Land Acquisition

2. Work Items Requested for this Concurrence:
Land Acquisition-Runway 19 Runway Protection Zone

I certify that the work items requested are current and ready for the initiation of work. I understand that no payments will be released until (a) Project Status Reports (Form AV-502) are on file with the Division of Aviation supporting payments, and (b) the Sponsor has complied with the grant procedures contained in the Program Guidance Handbook for State Aid to Airports including submission of all required forms.

Signed: As approved by Airport Board 6/24/13 Date: 6/28/13
(Sponsor's Authorized Representative)

1. Work Items Authorized by This Concurrence:

As requested

2. Work Items NOT Authorized by This Concurrence:

3. Special Provisions For This Concurrence:

4. Recommended by: GA msw 7/15/13 APM [Signature] 7/15/13
(initials) / (date) (initials) / (date)

Authorized By Division of Aviation:

Signed: Billy Walcott Date: 7/15/13

RETURN FORM TO: NCDOT AVIATION, GRANTS ADMINISTRATOR, 1560 Mail Service Center, Raleigh, NC 27699-1560

Payments will remit to: Rutherford County Airport Authority
c/o County of Rutherford

AIRPORT NAME Rutherford County-Marchman Field Airport ID FQD
 Project Number 36237.20.13.1 PO No. 5700010006 Vendor ID 25143

Request for Interim Payment

GRANT EXPIRATION DATE 7/1/2014

Payment Number 1 Invoice Date 6/28/2013

No DBE/MBE/WBE/HUB Vendor Payments

Check one:

STATE AID TO AIRPORTS PROJECT STATE MATCH/AIP PROGRAM
 STATE/FEDERAL BLOCK GRANT PROGRAM

Cat. Code	Category of Expenditure	Budgeted	Cost this Period	Cost Incurred To Date	Balance
A101	Administrative Expense	\$0.00		\$0.00	\$0.00
A102	Preliminary Engineering, Testing	\$0.00		\$0.00	\$0.00
A103	Land Acquisition, Structure/Utility Relocation	\$401,142.00	\$301,824.84	\$301,824.84	\$99,317.16
A104	Engineering Services Basic Fees	\$0.00		\$0.00	\$0.00
A105	Project Inspection, Quality Assurance, Testing	\$0.00		\$0.00	\$0.00
A106	Construction and Project Improvement Cost	\$0.00		\$0.00	\$0.00
A107	Equipment (i.e. nav aids, fire trucks, etc.)	\$0.00		\$0.00	\$0.00
A108	Miscellaneous Expenses (specify)	\$0.00		\$0.00	\$0.00
A109	In Kind Match	\$0.00		\$0.00	\$0.00
Grand Total All Expenses To Date		\$401,142.00	\$301,824.84	\$301,824.84	\$99,317.16

Federal Share	90%	\$271,642.36	\$271,642.36
State Share	0%	\$0.00	\$0.00
Local Share	10%	\$30,182.48	\$30,182.48

Payment Requested This Invoice **\$271,642.36**

SPONSOR CERTIFICATION

I certify that, to the best of my knowledge, billed costs of disbursements are in accordance with the terms of the Grant Agreement, and that the reimbursement represents the share(s) due which have not been previously requested, that an inspection on all work represented on this invoice has been performed, and that it has been determined that all work being reimbursed meets project specifications and is in accordance with the terms of the grant.

As approved by Airport Board 6/24/13
 Sponsor's Representative (signature)

Date 6/28/13

Make payable and remit to:
 Rutherford County Airport Authority
 c/o County of Rutherford
 289 North Main Street
 Rutherfordton, NC 28139

E-mail to: aviation_invoices@ncdot.gov
 Print & mail to: NCDOT AVIATION, GRANTS ADMINISTRATOR
 1560 MAIL SERVICE CENTER
 RALEIGH NC 27699-1560

N.C. Department of Transportation - Division of Aviation
State Aid to Airports Program

Airport Name Rutherford County-Marchman Field Airport ID FQD
Project Number 36237.20.13.1 Purchase Order # 5700010006 Vendor ID 25143

Project Concurrence and Notice to Proceed

Sponsor Request

(Sponsor Completes This Section)

1. Type of Project: Planning Construction Other (Specify) Land Acquisition

2. Work Items Requested for this Concurrence:
Land Acquisition-Runway 19 Runway Protection Zone

I certify that the work items requested are current and ready for the initiation of work. I understand that no payments will be released until (a) Project Status Reports (Form AV-502) are on file with the Division of Aviation supporting payments, and (b) the Sponsor has complied with the grant procedures contained in the Program Guidance Handbook for State Aid to Airports including submission of all required forms.

Signed: As approved by Airport Board 6/24/13 Date: 6/28/13
(Sponsor's Authorized Representative)

1. Work Items Authorized by This Concurrence:

2. Work Items NOT Authorized by This Concurrence:

3. Special Provisions For This Concurrence:

4. Recommended by: GA _____ APM _____
(initials) / (date) (initials) / (date)

Authorized By Division of Aviation:

Signed: _____ Date: _____

RETURN FORM TO: NCDOT AVIATION, GRANTS ADMINISTRATOR, 1560 Mail Service Center, Raleigh, NC 27699-1560

Payments will remit to: Rutherford County Airport Authority
c/o County of Rutherford

Airport Name Rutherford County-Marchman

Airport ID FQD

Project Number 36237.20.13.1

PO # 5700010006

Vendor ID 25143

Quarterly Project Status Report

Due Dates _____ January 1 _____ April 1 _____ 2013 _____ July 1 _____ October 1

Project Status:

1. Has consultant for engineering/planning services been retained?

YES

Name of Firm: W.K. Dickson & Co., Inc.

NO

Anticipated date for hiring: _____

2. Extent of major work phases begun (check all that apply):

None

Bidding

Final Closeout

Preliminary Design

Construction Start

Final Plans

Project Accepted

Construction Start Date: _____

Actual

OR

Proposed

4. Percentage of Overall Work Completed to Date: _____

75 %

5. Anticipated Completion Date for All Work: _____

6. Current Project Status: (explain progress, delays, or special problems encountered to date)

The Owens property has been purchased.

Sponsor's Representative: _____

As approved by Airport Board 6/24/13
(Signature)

Telephone Contact #: _____

828-287-6085

Date: _____

6/28/13

RETURN FORMS TO:

NCDOT AVIATION, GRANTS ADMINISTRATOR, 1560 Mail Service Center, Raleigh, NC 27699-1560

Rutherford County Airport Authority

Bob Howard, *Chair*
Keith Hunter, *Vice Chairman*

Members
Bob Ralph
Kyle Hankinson
Jamie Lou Padgett

Mr. Dion Viventi, PE
NC Department of Transportation Division of Aviation
1560 Mail Service Center
Raleigh, NC 27699-1560

July 12, 2013

Re: Rutherford County Airport, Marchman Field

Dear Mr. Viventi:

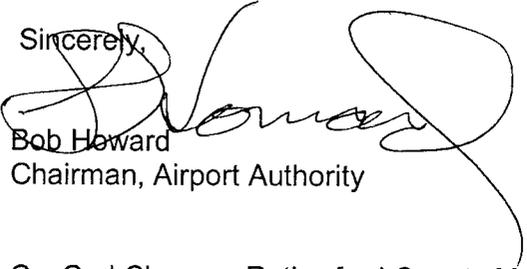
The Airport Authority has completed the purchase of the Julius and Wanda Owens property at 110 Goshen Road. The purchase was conducted in accordance with FAA guidelines for Land Acquisition and Relocation Assistance. (This allows for the seller to have up to 90 days to vacate the property after closing)

As follow up to your conversation with Terri Jenkins yesterday and as requested we offer that: The Airport Authority/Sponsor will be responsible for and ensures that items noted in the Environmental Screening Report that may require actionable mitigation will be completed and a final "walk-through" inspection will be conducted after the seller has removed all personal property and is prepared to relocate.

We trust that this assurance satisfies your request and allows for you to process the submitted reimbursement documents for payment.

Many thanks to you and the Division of Aviation for your continued support of this critical land purchase and all that you continue to do for the good of our airport.

Sincerely,


Bob Howard
Chairman, Airport Authority

Cc: Carl Classen, Rutherford County Manager
Paula Roach, Rutherford County Finance Dept.
Elizabeth Miller, Airport Authority Attorney