OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

# Memorandum

MIAMI-DADE COUNTY

**Date:** October 1, 2013

Agenda Item No. 3(B)(12)

**To:** Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez
Mayor

**Subject:** Ratification of Acceptance and Execution of Federal Aviation Administration Grant No. 3-12-0049-068-2013 in the amount of $29,187,416.00 to Rehabilitate Runway 12-30 and its Associated Taxiways and Construct the Westside Cargo Apron Phase 2 at Miami International Airport

Resolution No. R-793-13

## RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) adopt the attached resolution ratifying the actions of the Mayor or Mayor's designee, pursuant to provisions of the Miami-Dade Aviation Department's (MDAD) Expedite Ordinance No. 95-64, codified as Section 2-285 (6) of the Miami-Dade County Code, in accepting and executing the Federal Aviation Administration's (FAA) Airport Improvement Program (AIP) Grant Agreement Number 3-12-0049-068-2013 in the amount of $29,187,416.00 to rehabilitate Runway 12-30 and its associated taxiways and construct Phase 2 of the Westside Cargo Apron at Miami International Airport (MIA).

## SCOPE

Miami International Airport is located primarily within Chairwoman Rebeca Sosa's District 6; however, the impact of this item is countywide as MIA is a regional asset.

## FISCAL IMPACT

The total construction cost for the rehabilitation of Runway 12-30 and associated taxiways and Phase 2 of the Westside Cargo Apron is $46,406,992. This FAA grant provides $29,187,416 or 75% toward eligible costs. The Florida Department of Transportation (FDOT) is funding an additional $8,366,060. The Miami-Dade Aviation Department (MDAD) Capital Improvement Program (CIP) will fund the remaining $8,853,516.

## PROJECT MONITOR

The projects will be managed by MDAD Facilities Manager Franklin Stirrup. The grant will be managed by MDAD Chief of Aviation Grants Norma Mata.

## BACKGROUND

On July 16, 2013, MDAD submitted its application for federal assistance for the rehabilitation of Runway 12-30 and its' associated Taxiways "P", "Q" and "R", and the construction of the MIA Additional Air Cargo Apron-Westside Project. The former project involves the pavement rehabilitation of the runway and taxiways, including the milling of one inch of existing deteriorated flexible pavement and overlaying the same with three inches of new flexible asphalt, overlay of existing shoulders with isolated areas for full-depth repair as needed, replacement of in-pavement center-line fixtures, installation of elevated-edge lighting fixtures and in-pavement hold-bar lighting, and restoration of existing pavement

marking and grooving. The project will provide the required reliability and safety for the runway, mitigate recurring pavement maintenance issues, and reduce associated operation impact closures.

The Air Cargo Apron-Westside Project will provide additional aircraft parking positions required due to aircraft fleet upgrades by the tenants in the Eastern "U" cargo area. The larger wing span of modern air cargo aircraft has reduced the available parking positions, causing adverse operational and revenue impacts. Additional aircraft parking areas provided by this project will help alleviate those impacts.

Jack Osterholt, Deputy Mayor

# MEMORANDUM

**(Revised)**

**TO:** Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

**DATE:** October 1, 2013

**FROM:** R. A. Cuevas, Jr.
County Attorney

**SUBJECT:** Agenda Item No. 3(B)(12)

**Please note any items checked.**

| | |
|---|---|
| _____ | **"3-Day Rule" for committees applicable if raised** |
| _____ | **6 weeks required between first reading and public hearing** |
| _____ | **4 weeks notification to municipal officials required prior to public hearing** |
| _____ | **Decreases revenues or increases expenditures without balancing budget** |
| _____ | **Budget required** |
| _____ | **Statement of fiscal impact required** |
| _____ | **Ordinance creating a new board requires detailed County Mayor's report for public hearing** |
| ✓ | **No committee review** |
| _____ | **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____ ) to approve** |
| _____ | **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required** |

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 3(B)(12)
10-1-13

RESOLUTION NO. R-793-13

RESOLUTION RELATING TO MIAMI INTERNATIONAL AIRPORT; RATIFYING ACTION OF MAYOR'S DESIGNEE IN APPROVING AND EXECUTING, PURSUANT TO THE PROVISIONS OF SECTION 2-285(6) OF MIAMI-DADE COUNTY'S CODE, FEDERAL AVIATION ADMINISTRATION GRANT NO. 3-12-0049-068-2013 IN THE AMOUNT OF $29,187,416.00 FOR THE REHABILITATION OF RUNWAY 12/30 AND THE CONSTRUCTION OF THE WESTSIDE CARGO APRON PHASE 2

**WHEREAS,** this Board desires to accomplish the purposes outlined in the accompanying memorandum and document, copies of which are incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,** that this Board approves, ratifies and confirms the actions of the Mayor's designee, pursuant to the provisions of Section 2-285(6) of the Miami-Dade County Code, in approving and executing the Federal Aviation Administration (FAA) Grant No. 3-12-0049-068-2013 in the amount of $29,187,416.00 for the rehabilitation of Runway 12/30 and its associated taxiways and the construction of the Westside Cargo Apron Phase 2 at Miami International Airport, and authorizes the Mayor or Mayor's designee to monitor the administration of the grant and exercise the County's rights thereunder.

The foregoing resolution was offered by Commissioner **Esteban L. Bovo, Jr.**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

| | | | |
|---|---|---|---|
| Rebeca Sosa, Chairwoman | **aye** | | |
| Lynda Bell, Vice Chair | **absent** | | |
| Bruno A. Barreiro | **absent** | Esteban L. Bovo, Jr. | **aye** |
| Jose "Pepe" Diaz | **aye** | Audrey M. Edmonson | **aye** |
| Sally A. Heyman | **absent** | Barbara J. Jordan | **aye** |
| Jean Monestime | **aye** | Dennis C. Moss | **absent** |
| Sen. Javier D. Souto | **aye** | Xavier L. Suarez | **aye** |
| Juan C. Zapata | **absent** | | |

The Chairwoman thereupon declared the resolution duly passed and adopted this 1st day of October, 2013. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

David M. Murray

Miami-Dade Aviation Department
P.O. Box 025504
Miami, Florida 33102-5504
T 305-876-7000 F 305-876-0948
www.miami-airport.com

miamidade.gov

Commercial Airports:
Miami International Airport

General Aviation Airports:
Dade-Collier Training & Transition
Homestead General
Kendall-Tamiami Executive
Opa-locka Executive

August 28, 2013

Mr. Bart Vernace, P.E., Manager
FAA, Orlando Airports District Office
5950 Hazeltine National Drive
Citadel International Building, Suite 400
Orlando, Florida 32822-5024

VIA E-Mail /FEDEX

**RE: Acceptance of Grant Agreement**
**AIP No. 3-12-0049-068-2013**
**"MIA Rehabilitate Runway 12/30 and associated Taxiways "P", "Q", and "R" – Construction Phase, Construct Westside Cargo Apron Phase 2 of Construction"**

Dear Mr. Vernace:

Enclosed please find original copy of the signed acceptance of the above mentioned grant agreement.

Miami-Dade Aviation Department (MDAD) would like to use the Letter of Credit method to facilitate the payment to the County.

If you have any questions, please call me at (305) 876-8080.

Sincerely,

Jose A. Ramos, R.A.
Division Director, Aviation Planning, Land-Use and Grants

JR/ak
Attachment

cc: N. Mata
K. Ritchey
D. Henry, FDOT/6

MIA FAA 068 2013 Transmittal Ltr to Bart Vernace Acceptance Letter

# GRANT AGREEMENT

*U. S. Department of Transportation Federal Aviation Administration*

Date of Offer: August 19, 2013

Project Number: 3-12-0049-068-2013
Recipient: Miami-Dade County Board of County Commissioners (Herein called Sponsor)
Airport: Miami International Airport

OFFER

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay, as the United States' share, seventy-five percent (75%) of the allowable costs incurred in accomplishing the project consisting of the following:

"Rehabilitate Runway 12/30 and associated Taxiways P, Q, & R – Construction Phase, Construct Westside Cargo Apron – Phase 2 of Construction"

as more particularly described in the Project Application dated July 16, 2013.

The maximum obligation of the United States payable under this Offer shall be $29,187,416 for airport development.

This offer is made in accordance with and for the purpose of carrying out the applicable provisions of the Federal Aviation Act of 1958, as amended, codified at Title 49 of the United States Code. Acceptance and execution of this offer shall comprise a Grant Agreement, as provided by Title 49 of the United States Code, constituting the contractual obligations and rights of the United States and the Sponsor.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

Manager, Airports District Office

SPECIAL CONDITIONS
none

ACCEPTANCE

The Sponsor agrees to accomplish the project in compliance with the terms and conditions contained herein and in the document "Terms and Conditions of Accepting Airport Improvement Program Grants" dated April 3, 2013. The Sponsor specifically acknowledges that knowingly and willfully providing false information to the Federal Government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject the Sponsor's Designated Official Representative to fines, imprisonment or both if the U.S. Department of Justice determines the official acted outside the scope of his/her duties.

Executed this 22nd day of Aug 20 13

(Seal)

Name of Sponsor

Attest

Signature of Sponsor's Designated Official Representative

Clerk

Title

Title

CERTIFICATE OF SPONSOR'S ATTORNEY

I, Thomas P. Abbott, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Florida. Further, I have examined the foregoing Grant Agreement, and the actions taken by said Sponsor relating thereto, and find that the acceptance thereof by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the applicable provisions of the Federal Aviation Act of 1958, as amended, codified at Title 49 of the United States Code. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Signature of Sponsor's Attorney

8/22/13
Date

# GRANT AGREEMENT

COPY

*U. S. Department of Transportation Federal Aviation Administration*

Date of Offer: August 19, 2013

Project Number: 3-12-0049-068-2013
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UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

Manager, Airports District Office

SPECIAL CONDITIONS
none

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The Sponsor agrees to accomplish the project in compliance with the terms and conditions contained herein and in the document "Terms and Conditions of Accepting Airport Improvement Program Grants" dated April 3, 2013. The Sponsor specifically acknowledges that knowingly and willfully providing false information to the Federal Government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject the Sponsor's Designated Official Representative to fines, imprisonment or both if the U.S. Department of Justice determines the official acted outside the scope of his/her duties.

Executed this 27th day of Aug, 20 13
(Seal)

Name of Sponsor

Attest

Signature of Sponsor's Designated Official Representative

Clerk

Title

Title

CERTIFICATE OF SPONSOR'S ATTORNEY

I, Thomas P. Abbott, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Florida. Further, I have examined the foregoing Grant Agreement, and the actions taken by said Sponsor relating thereto, and find that the acceptance thereof by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the applicable provisions of the Federal Aviation Act of 1958, as amended, codified at Title 49 of the United States Code. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Signature of Sponsor's Attorney

8/28/13
Date

COPY

U. S. Department
of Transportation
Federal Aviation
Administration

April 3, 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 contact 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.

   (1) 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.

   (2) Grantees must submit payment requests electronically and the FAA will process payment requests electronically.

2. System User Access.

   (1) 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.

   (2) 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

   (3) 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.

   (1) 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.

   (2) 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.

   (3) 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. **System for Award Management Registration and Universal Identifier Requirements**

1. *Requirement for System for Award Management (SAM) Registration*

   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 SAM 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. *System for Award Management (SAM) Registration* 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 SAM Internet site (currently at *http://www.sam.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:

i. Receives a subaward from you under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

iii. 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.

**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.

**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.

**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 Opportunity[1]

Executive Order 11990 - Protection of Wetlands

Executive Order 11998 – Flood Plain Management

Executive Order 12372 - Intergovernmental Review of Federal Programs

Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction[1]

Executive Order 12898 - Environmental Justice

**Federal Regulations**

a. 14 CFR Part 13 - Investigative and Enforcement Procedures.

b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.

c. 14 CFR Part 150 - Airport noise compatibility planning.

d. 29 CFR Part 1 - Procedures for predetermination of wage rates.[1]

e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.[1]

f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).[1]

g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).[1]

h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.[3]

i. 49 CFR Part 20 - New restrictions on lobbying.

j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.

k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.

l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.[1 2]

m. 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.

n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.[1]

o. 49 CFR Part 29 – Government wide debarment and suspension (nonprocurement) and government wide requirements for drug-free workplace (grants).

p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.

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

**Office of Management and Budget Circulars**

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

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

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

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

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

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

2. **Responsibility and Authority of the Sponsor.**

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

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

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

4. **Good Title.**

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

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

5. **Preserving Rights and Powers.**

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

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

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

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

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

   f. If an arrangement is made for management and operation of the airport by any agency or person other than the Sponsor or an employee of the Sponsor, the Sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.

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

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

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

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

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

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

11. **Pavement Preventive Maintenance.** With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

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

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

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

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

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

15. **Veteran's Preference.** It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

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

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

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

    a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.

    b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.

    c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

    d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.

    e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

    f. It will grant the Secretary the right to disapprove the Sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.

    g. It will grant the Secretary the right to disapprove the use of the Sponsor's employees to do all or any part of the project.

    h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. **Operation and Maintenance.**

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

        1) Operating the airport's aeronautical facilities whenever required;

        2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and

        3) Promptly notifying airmen of any condition affecting aeronautical use of the airport.

    Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the Sponsor.

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

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

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

22. **Economic Nondiscrimination.**

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

    b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for

furnishing services to the public at the airport, the Sponsor will insert and enforce provisions requiring the contractor to-

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

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

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

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

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

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

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

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

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

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

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

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

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

25. **Airport Revenues.**

a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:

1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the

airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

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

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

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

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

26. **Reports and Inspections.** It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

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

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

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

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

II. 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 nondiscrimination 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.