

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 13 Ordinance/Resolution# 09-10-555 Council District: 4

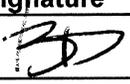
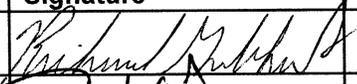
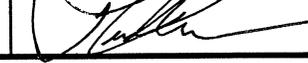
For Meeting of September 7, 2010

(Adoption Date)

TITLE:

A RESOLUTION AUTHORIZING THE APPLICATION FOR AND ACCEPTANCE OF FEDERAL AIRPORT IMPROVEMENT PROGRAM GRANT NO. AIP-03-035-0024-25 IN THE AMOUNT OF \$79,714.00, AUTHORIZING THE ACCEPTANCE OF NEW MEXICO DEPARTMENT OF TRANSPORTATION AVIATION DIVISION GRANT LRU-10-001 IN THE AMOUNT OF \$2,098.00, AUTHORIZING AWARD OF A CONTRACT FOR A WILDLIFE HAZARD ASSESSMENT SERVICES AT THE LAS CRUCES INTERNATIONAL AIRPORT TO AIRPORT WILDLIFE CONSULTANTS, LLC, CAVE CREEK, ARIZONA IN THE AMOUNT OF \$78,010.25 PLUS NMGRY IN THE AMOUNT OF \$5,899.75 FOR A TOTAL CONTRACT AWARD OF \$83,910.00, AND AUTHORIZING ADJUSTMENT TO THE CITY OF LAS CRUCES FISCAL YEAR 2010-2011 BUDGET IN THE AMOUNT OF \$81,812.00.

PURPOSE(S) OF ACTION: To authorize staff to apply for and accept Federal and State grants, to enter into a contract with Airport Wildlife Consultants, LLC to perform a Wildlife Hazard Assessment at the Las Cruces International Airport and adjust the City's FY 2010-2011 budget to include the City, FAA and State grant funds that will pay for this project.

Drafter and Staff Contact: Lisa Murphy, Airport Administrator LM		Department: Facilities/Airport		Phone: 541-2471	
Department	Signature	Phone	Department	Signature	Phone
Facilities Director		541-2651	Budget		541-2107
Other			Assistant City Manager		541-2271
Legal		541-2128	City Manager		541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: The Las Cruces International Airport is a Part 139 Certificated airport which means it can accept air carrier aircraft. The Part 139 certification also requires that the airport meet a higher standard when it comes to maintenance, ARFF (aircraft rescue and fire fighting) service and operational standards. Recent increased awareness of wildlife hazards to aircraft have caused the FAA to now require that all Part 139 Certificated airports conduct a Wildlife Hazard Assessment to determine potential risks to air navigation. Therefore, the FAA has directed Las Cruces International Airport to conduct a Wildlife Hazard Assessment in conformance with Federal Aviation Regulations Part 139.337, and has made funding available to perform this work, with the City and State both funding 2.5% of the project.

(Continue on additional sheets as required)

A Wildlife Hazard Assessment is a detailed study of all wildlife activity at and around an airport, including birds and large and small mammals, and it follows a standardized methodology. Wildlife are surveyed at regular intervals throughout a twelve-month period so seasonal changes are documented. After a year's worth of surveys, a written report is prepared that will describe hazards to aviation posed by wildlife and provide recommendations to mitigate such hazards. The work can only be performed by a qualified Airport Wildlife Biologist, and the entire project is expected to take 15 months.

At the request of the user department, the Purchasing Section solicited proposals from qualified firms to enter into a contract to perform a Wildlife Hazard Assessment at the Las Cruces International Airport via Request for Proposal 09-10-555. Three firms responded to the Request for Proposal and were evaluated by the Selection Advisory Committee on July 13, 2010. Based on the written proposals, the Selection Advisory Committee recommended award of a contract to the highest-ranked firm, Airport Wildlife Consultants, LLC (AWC), Cave Creek, Arizona. The City and AWS completed negotiations and have agreed on a price to perform the requested services of \$78,010.25, plus NMGRT in the amount of \$5,899.75, for a project total of \$83,910.00. The contract is attached.

The Wildlife Hazard Assessment will be funded as follows: 95% (\$79,714.00) from FAA Airport Improvement Program (AIP) Grant AIP-03-035-0024-25; 2.5% (\$2,098.00) from the New Mexico Department of Transportation Aviation Division Grant LRU-10-001; and it will require a 2.5% (\$2,098.00) match from the City of Las Cruces. The State Aviation Department portion of the funding was already applied for pursuant to Resolution 10-258 on April 19, 2010; this Resolution will merely accept the State's funding. But, as FAA funding is dependent upon legislative appropriations and cannot be applied for until bids or proposals are received, which occurs well after the City's budget has been finalized, this Resolution includes a Budget Adjustment Request in the amount of \$81,812.00 to include these project costs in the City's Fiscal Year 2010-2011 Adopted Budget. The budget adjustment amount is less than the project total, because the City's match will come from Airport Operations dollars from the existing Facilities Department Budget.

This project is a requirement for all Part 139 Certificated airports and is supported by Airport staff and the Airport Advisory Board. Approval of this Resolution will allow the City to apply for and accept the FAA Grant, accept the State Aviation Division Grant, allow the Mayor to sign the Grant Agreements on behalf of the Airport, allow the City to award a contract to Airport Wildlife Consultants, LLC, of Cave Creek Arizona, and will adjust the City's Fiscal Year 2010-2011 budget in the amount of \$81,812.00.

SUPPORT INFORMATION:

1. Resolution
2. Purchasing Manager Request to Contract form, Exhibit "A"
3. Proposal Scoring Report
4. Budget Adjustment Request, Exhibit "B"
5. Professional Services Agreement between Airport Wildlife Consultants, LLC and the City of Las Cruces to conduct a Wildlife Hazard Assessment at the Las Cruces Airport - Attachment A
6. FAA Grant Application for AIP-03-035-0024-25

(Continue on additional sheets as required)

- 7. New Mexico Department of Transportation Aviation Division Grant award LRU-10-001
- 8. Grant Overview Worksheet

SOURCE OF FUNDING:

Is this action already budgeted?	Yes	<input type="checkbox"/>	See fund summary below
	No	<input checked="" type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
	<input checked="" type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)	
	<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.	
Does this action create any revenue?	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.

FUND SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
Airport Operations Fund Federal – AIP Grant	1010 710900-xxxxx	\$79,714	\$-0-	\$-0-	General Airport Runway Maintenance
Airport Operations Fund State Grant	1010 710900-xxxxx	\$2,098	\$-0-	\$-0-	
Airport Operations Fund Local Match	1010 71900-xxxxx	\$2,098	\$24,400	\$22,302	

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will allow the City to proceed with the Wildlife Hazard Assessment Project by applying for and accepting the Federal Aviation Administration Grant AIP-03-035-0024-25, accepting New Mexico Department of Transportation Aviation Division Grant LRU 10-001, awarding a contract to Airport Wildlife Consultants, LLC of Cave Creek, Arizona in the amount of \$78,010.25 plus applicable NMGRT, and adjusting the City's Fiscal Year 2010-2011 budget in the amount of \$81,812.00.
2. Vote "No"; this will not accept either the FAA or the State Grants, award a contract to Airport Wildlife Consultants, LLC to perform the work, or amend the City's Fiscal year 2010-2011 budget, and will result in a loss of the project and non-compliance with FAR Part 139.

(Continue on additional sheets as required)

3. Vote to "Amend"; this would require direction from Council as to what actions staff should take.
4. Vote to "Table"; this could result in delays in submitting the FAA Grant Application and awarding the contract, causing the City to miss FAA deadlines and possibly resulting in the loss of the project.

REFERENCE INFORMATION

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. Resolution No. 10-258

(Continue on additional sheets as required)

RESOLUTION NO. 09-10-555

A RESOLUTION AUTHORIZING THE APPLICATION FOR AND ACCEPTANCE OF FEDERAL AIRPORT IMPROVEMENT PROGRAM GRANT NO. AIP-03-035-0024-25 IN THE AMOUNT OF \$79,714.00, AUTHORIZING THE ACCEPTANCE OF NEW MEXICO DEPARTMENT OF TRANSPORTATION AVIATION DIVISION GRANT LRU-10-001 IN THE AMOUNT OF \$2,098.00, AUTHORIZING AWARD OF A CONTRACT FOR A WILDLIFE HAZARD ASSESSMENT SERVICES AT THE LAS CRUCES INTERNATIONAL AIRPORT TO AIRPORT WILDLIFE CONSULTANTS, LLC, CAVE CREEK, ARIZONA IN THE AMOUNT OF \$78,010.25 PLUS NMGRY IN THE AMOUNT OF \$5,899.75 FOR A TOTAL CONTRACT AWARD OF \$83,910.00, AND AUTHORIZING ADJUSTMENT TO THE CITY OF LAS CRUCES FISCAL YEAR 2010-2011 BUDGET IN THE AMOUNT OF \$81,812.00.

The City Council is informed that:

WHEREAS, the City of Las Cruces, New Mexico, a municipal corporation, is the owner of certain real property known as the Las Cruces International Airport; and

WHEREAS, as an Federal Aviation Regulations Part 139 Certificated airport, the Federal Aviation Administration has required Las Cruces International Airport to conduct a Wildlife Hazard Assessment to evaluate wildlife hazards at the airport; and

WHEREAS, the City has been offered FAA Airport Improvement Program Grant AIP-03-35-0024-25 and New Mexico Department of Transportation Aviation Division Grant LRU-10-001 to fund the Wildlife Hazard Assessment; and

WHEREAS, the City solicited proposals via Request for Proposal RFP-09-10-555, Wildlife Hazard Assessment, and three responses were received; and

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WHEREAS, the Selection Advisory Committee reviewed the proposals at their meeting of July 13, 2010, and recommends award to Airport Wildlife Consultants, LLC, Cave Creek, Arizona; and

WHEREAS, FAA grant approvals occur well after the City's budget process has been finalized; therefore, funds for this project were not included in the City's Fiscal Year 2010-2011 adopted budget.

NOW, THEREFORE, be it resolved by the governing body of the City of Las Cruces:

(I)

THAT application for and acceptance of FAA Airport Improvement Program Grant AIP-03-35-0024-25 in the amount of \$79,714.00 is hereby approved.

(II)

THAT acceptance of NMDOT Aviation Division Grant LRU-10-001 in the amount of \$2,098.00 is hereby approved.

(III)

THAT a contract to perform a Wildlife Hazard Assessment is awarded to Airport Wildlife Consultants, LLC, Cave Creek, Arizona, in the amount of \$78,010.25 plus NMGR of \$5,899.75 for a total project award of \$83,910.00.

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(IV)

THAT the Purchasing Manager is authorized to contract with Airport Wildlife Consultants, LLC as outlined in the signed Purchasing Manager's Request to Contract, attached hereto as Exhibit "A".

(V)

THAT the City's Fiscal Year 2010-2011 Adopted Budget is hereby amended in the amount of \$81,812.00.

(VI)

THAT City staff and officials are directed to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

VOTE:

Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Connor: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Thomas: _____

Moved by: _____
Seconded by: _____

APPROVED TO FORM:

City Attorney

CITY OF LAS CRUCES

PURCHASING MANAGER'S REQUEST TO CONTRACT

For Meeting of: September 7, 2010

Resolution No.: 09-10-555

Contract Purchase For Wildlife Hazard Assessment

The Las Cruces City Council is provided the following information concerning this request:

RFP SOLICITATION INFORMATION:

1. RFP No./ Due Date: RFP No. 07-08-336/ April 18, 2008
2. Description: Wildlife Hazard Assessment
3. Using Department: Facilities/Airport
4. Number of Responses Accepted: Three (3)
5. Award Recommendation To: Airport Wildlife Consultants, LLC of Cave Creek, AZ
6. Total Award Amount (including any tax and contingency): \$83,910.00
7. Contract Duration: Fifteen (15) months

LOCAL PREFERENCE FACTOR

Local Preference Factor Applied Per LCMC §24-100	No	X	LCMC §24-100 not applicable to this solicitation
	Yes		Made A Difference To Awards(s) Made No Difference To Bid Award(s)

PROCUREMENT CODE COMPLIANCE:

The City of Las Cruces Procurement Code was administered in the conduct of this procurement and approval to purchase is hereby requested pursuant to Section 24-92.


 Purchasing Manager 18/12/2010
 Date

CONFIRMATION OF FUND ENCUMBRANCE:

REQUISITION or PURCHASE ORDER NUMBER:	TBD
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CITY OF LAS CRUCES
 RFP No.: 09-10-555
 Wildlife Hazard Assessment
 Due Date/Time: June 10, 2010 @ 4:00 p.m.

PHASE I EVALUATION				
PROPOSAL SCORES		Airport Wildlife Consultants, LLC	Birdstrike Control Program	Loomacres Wildlife Mgmt.
1	RATER #1	370	385	340
2	RATER #2	385	350	385
3	RATER #3	400	350	320
4	RATER #4	375	310	310
5	RATER #5	340	355	315
6	RATER #6	345	240	280
7	RATER #7	465	455	400
8	RATER #8	405	370	415
Rating Sheets Raw Score:		3085	2795	2775
(Less high score)		465	455	415
(Less low score)		340	240	290
Proposal Rating Sheets Net Scores		2280	2100	2070
TOP TEN PERCENT DETERMINATION				
Top ranked score		2280	2280	2280
Top ranked score -10%		2052.0	2052.0	2052.0
Determination to Proceed to Interview		PROCEED	PROCEED	PROCEED
INTERVIEW SCORES		Airport Wildlife Consultants, LLC	Birdstrike Control Program	Loomacres Wildlife Mgmt.
1	RATER #1	0	0	0
2	RATER #2	0	0	0
3	RATER #3	0	0	0
4	RATER #4	0	0	0
5	RATER #5	0	0	0
6	RATER #6	0	0	0
7	RATER #7	0	0	0
8	RATER #8	0	0	0
Interview Rating Sheets Raw Score:		0	0	0
(Less high score)		0	0	0
(Less low score)		0	0	0
Interview Rating Sheets Net Scores		0	0	0
Proposal Rating Sheets Net Scores		2280	2100	2070
PHASE I TOTAL SCORE				
		2280	2100	2070
Determination to Proceed to Phase II:				
Top ranked score		2280	2280	2280
Top ranked score minus 10%		2052.0	2052.0	2052.0
		PROCEED	PROCEED	PROCEED

PHASE II EVALUATION				
DEDUCTION FOR JOBS IN PROGRESS				
Enter Number of Raters		8	8	8
Jobs in Progress		0	0	0
Total Deduction for Job in Progress		0	0	0
LOCAL/STATE PREFERENCE		Local ? (Yes or No)	Local ? (Yes or No)	Local ? (Yes or No)
		0	0	0
Total Preference Points		0.0	0.0	0.0
TOTAL PH I & II SCORE WITHOUT COST FACTOR		2280.0	2100.0	2070.0
COST FACTOR: Cost Factor Points = (Lowest Cost / Respondent Cost X 0.2) X Respondent Total Phase I Score				
Respondent Cost		\$94,187.00	\$69,700.00	\$74,197.00
Lowest Respondent's Cost		\$69,700.00	\$69,700.00	\$69,700.00
Total Cost Factor Points		337.4	420.0	388.9
PHASE II TOTAL SCORE		337.4	420.0	388.9
Grand Total		2617.4	2520.0	2458.9

**CITY OF LAS CRUCES
ADOPTED BUDGET FY 2010/2011**

FUND	DIVISION		FUND TYPE	
Airport Operations Fund 1010	Facilities		General Fund	
	FY 2009/10 Projected*	FY 2010/11 Adopted	Adjustment	FY 2010/11 Adjusted
RESOURCES				
Beginning Balance	\$ 61,421	(4,370)		(4,370)
REVENUES				
542521 Landing Fees	\$ 1,840	1,900		1,900
542522 Rental/Lease Income	108,172	103,800		103,800
542523 Airport Comercial Fees	11,397	12,500		12,500
542525 Airport Land Rental	59,144	67,200		67,200
570010 Interest on Investment	23	500		500
590051 Net Incr (Decr) Fair Value Investment	97	0		0
592001 Reimbursed Expenses	(2,930)	0		0
XXXXX - Wildlife Hazard Assessment FAA	0	0	79,714	79,714
XXXXX - Wildlife Hazard Assessment State	0	0	2,098	2,098
Total Revenues	\$ 177,743	185,900	81,812	267,712
Total Resources	\$ 239,164	181,530	81,812	263,342
EXPENDITURES				
Personnel Services	\$ 289,380	286,566		286,566
Operating Expenses	158,360	202,420	81,812	284,232
Capital Outlay	44,217	0		0
Additional Managed Reduction	0	(13,667)		(13,667)
Total Expenditures - 10123180	\$ 491,957	475,319	81,812	557,131
OTHER FINANCING SOURCES (USES)				
Transfer to Fund 1000 - General Fund	\$ (20,000)	(20,000)		(20,000)
Transfer to Fund 6340 - Liability Fund	(1,577)	(1,577)		(1,577)
Transfer from Fund 1000 - General Fund	270,000	320,000		320,000
Total Other Financing Sources (Uses)	248,423	298,423	0	298,423
ENDING CASH BALANCE	\$ (4,370)	4,634	0	4,634

*Projected based on 8 months actual through February 28, 2010 and 4 months projected.



PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this September 7, 2010, by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Airport Wildlife Consultants, LLC, of 4735 E. Melanie Drive, Cave Creek, AZ 85331, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Conduct Wildlife Hazard Assessment at the Las Cruces International Airport.

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No.09-10-555 incorporated herein by reference and as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount not to exceed \$ 78,010.25 plus applicable taxes. CONTRACTOR shall perform the SERVICES upon receipt of a written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that is required by the CITY and it will serve the CITY diligently and faithfully,

and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on September 7, 2010 for a term of 15 months through December 7, 2011.

CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR in Exhibit B.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the City, CONTRACTOR shall so notify the CITY of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by

CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment, and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY and shall be delivered to the CITY when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel

will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR'S employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT.

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain during the life of his subcontract:

- a. General Liability: \$1,000,000.00 per occurrence
\$2,000,000.00 Aggregate
Includes Coverage for Premises/Operation Coverage & Products/Completed Operations
Must be Occurrence form coverage
Coverage shall remain in force for the duration of the contract.
- b. Auto Liability: \$1,000,000.00 Each Accident
Covers all owned, leased, hired and non-owned autos or "any auto"
- c. Professional Liability: \$1,000,000 per claim

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Lisa Murphy, Airport Manager

With Copies to: City Attorney
 Purchasing Manager

TO CONTRACTOR: Airport Wildlife Consultants, LLC
 4735 E. Melanie Drive,
 Cave Creek, AZ 85331
 ATTENTION: Steve Fairaizl

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

Steven D. Fairgizl

Airport Wildlife Consultants

CONTRACTOR

THE CITY OF LAS CRUCES

BY: Steven D. Fairgizl
PRINCIPAL

BY: _____
PURCHASING MANAGER

DATE: 8-5-10

DATE: _____

APPROVED AS TO FORM:

CITY ATTORNEY

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED September 7, 2010	Applicant Identifier LRU
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier 03-35-0024-25

1. TYPE OF SUBMISSION:
Application
 Construction
 Non-Construction

Preapplication
 Construction
 Non-Construction

5. APPLICANT INFORMATION

Legal Name: Las Cruces International Airport	Organizational Unit: City of Las Cruces
Organizational DUNS: 077609279	Department: Facilities
Address: Street: P.O. Box 20000	Division: Airport
City: Las Cruces	Name and telephone number of person to be contacted on matters involving this application (give area code)
County: Dona Ana	Prefix: Mrs. First Name: Lisa
State: New Mexico Zip Code: 88004	Middle Name: L.
Country: United States	Last Name: Murphy
	Suffix:
	Email: lmurphy@las-cruces.org

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

8	5	-	0	6	0	0	0	1	4	7
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Phone number (give area code): **(575) 541-2471** FAX number (give area code): **(575) 527-6470**

8. TYPE OF APPLICATION:

New Continuation Revision

If Revision, enter appropriate letter(s) in box(es):
(See back of form for description of letters)

Other (specify)

7. TYPE OF APPLICANT: (See back of form for Application Types)

C

Other (specify):

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER

2 0 - 1 0 6

TITLE: **Airport Improvement Program**

9. NAME OF FEDERAL AGENCY
Federal Aviation Administration

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:
Wildlife Hazard Assessment

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):
Las Cruces, Dona Ana County, New Mexico

13. PROPOSED PROJECT

Start Date	Ending Date
Grant	

14. CONGRESSIONAL DISTRICTS OF

a. Applicant Second	b. Project Second
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15. ESTIMATED FUNDING

a. Federal	\$	79,714	.00
b. Applicant	\$.00
c. State	\$	2,098	.00
d. Local	\$	2,098	.00
e. Other	\$.00
f. Program income	\$.00
g. TOTAL	\$	83,910	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS

a. Yes. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE: **September 7, 2010**

b. No. PROGRAM IS NOT COVERED BY E. O. 12372

OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Authorized Representative

Prefix Mrs.	First Name Lisa	Middle Name L.
Last Name Murphy		Suffix
b. Title Airport Manager		c. Telephone number (give area code) (575) 541-2471
d. Signature of Authorized Representative		e. Date Signed September 7, 2010

**PART II
PROJECT APPROVAL INFORMATION
SECTION A**

Item 1. Name of Governing Body
Does this assistance request require State, local, regional, or other priority rating? Priority
 Yes No

Item 2. Name of Agency or Board
Does this assistance request require State, local advisory, educational or health clearances? (Attach Documentation)
 Yes No

Item 3. (Attach Comments)
Does this assistance request require clearinghouse review in accordance with OMB Circular A-95?
 Yes No

Item 4. Name of Approving Agency
Does this assistance request require State, local, regional, or other planning approval? NMDOT Aviation
Date 6/18/10
 Yes No

Item 5. Check One: State
Is the proposed project covered by an approved comprehensive plan? Local
Regional
 Yes No Location of plan

Item 6. Name of Federal Installation
Will the assistance requested serve a Federal installation? Federal Population benefiting from Project
 Yes No

Item 7. Name of Federal Installation
Will the assistance requested be on Federal land or installation? Location of Federal Land
Percent of Project
 Yes No

Item 8. See instructions for additional information to be provided.
Will the assistance requested have an impact or effect on the environment?
 Yes No

Item 9. Number of:
Will the assistance requested cause the displacement of individuals, families, businesses, or farms? Individuals
Families
Businesses
Farms
 Yes No

Item 10. See instructions for additional information to be provided.
Is there other related Federal assistance on this project previous, pending, or anticipated?
 Yes No

PART II – SECTION C

The Sponsor hereby represents and certifies as follows:

1. **Compatible Land Use.** – The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

Airspace Zoning

2. **Defaults.** – The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

None

3. **Possible Disabilities.** – There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of Part V of this Application, either by limiting its legal or financial ability or otherwise, except as follows:

None

4. **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. True

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

6. **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. True

7. **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. N/A

8. **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 and 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. N/A

PART II – SECTION C (CONTINUED)

9. Exclusive Rights. – There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

None

10. Land. – (a) The sponsor holds the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

Exhibit "A" which is on file with the FAA.

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

N/A

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

N/A

**State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.*

PART III – BUDGET INFORMATION – CONSTRUCTION**SECTION A – GENERAL**

1. Federal Domestic Assistance Catalog No. 20.106
2. Functional or Other Breakout

SECTION B - CALCULATION OF FEDERAL GRANT

COST CLASSIFICATION	Use only for revisions		Total Amount Required
	Latest Approved amount	Adjustment + or (-)	
1. Administration expense	\$	\$	\$
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			
5. Other architectural engineering fees			83,910.00
6. Project inspection fees			
7. Land development			
8. Relocation expenses			
9. Relocation payments to individuals and businesses			
10. Demolition and removal			
11. Construction and project improvement			
12. Equipment			
13. Miscellaneous			
14. Total (Lines 1 through 13)			83,910.00
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)			83,910.00
17. Less: Ineligible Exclusions			
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)			83,910.00
20. Federal Share requested of Line 19			79,714.00
21. Add Rehabilitation Grants Requested (100 percent)			
22. Total Federal grant requested (Lines 20 & 21)			79,714.00
23. Grantee share			2,098.00
24. Other shares			2,098.00
25. Total project (Lines 22, 23, & 24)	\$	\$	\$83,910.00

SECTION C - EXCLUSIONS		
26. Classification	Ineligible for Participation (1)	Excluded from Contingency Provision (2)
a.	\$	\$
b.		
c.		
d.		
e.		
f.		
g. Totals	\$	\$

SECTION D - PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE	
27. Grantee Share	\$
a. Securities	
b. Mortgages	
c. Appropriations (By Applicant)	2,098.00
d. Bonds	
e. Tax Levies	
f. Non Cash	
g. Other (Explain)	
h. Total - Grantee Share	2,098.00
28. Other Shares	
a. State	2,098.00
b. Other	
c. Total Other Shares	
29. TOTAL	\$ 4,196.00

SECTION E - REMARKS

PART IV - PROGRAM NARRATIVE (ATTACH - SEE INSTRUCTIONS)

**PART IV
PROGRAM NARRATIVE**

(Suggested Format)

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 2120-0569

PROJECT: Wildlife Hazard Assessment
AIRPORT: Las Cruces International Airport
1. Objective: Conduct wildlife hazard assessment as per FAR PART 139.337.
2. Benefits Anticipated: Increased safety for airport users by providing information on existing wildlife activity on the airport, and recommendations on how to mitigate such activity.
3. Approach: <i>(See approved Scope of Work in final Application)</i> Wildlife on airport will be surveyed and documented by a qualified airport wildlife biologist over a twelve month period, and a final report and recommendations will be prepared.
4. Geographic Location: Las Cruces International Airport
5. If Applicable, Provide Additional Information: None
6: Sponsor's Representative: <i>(incl. address & tel. no.)</i> Mrs. Lisa Murphy P.O. Box 20000 Las Cruces, New Mexico 88004 Phone Number: (575) 541-2471

ASSURANCES
Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of the grant offer by the sponsor, these assurances are incorporated in and become part of the 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 the 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 the 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 the 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) Rehabilitation Act of 1973 - 29 U.S.C. 794.
- m. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
- n. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- o. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- p. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.¹
- q. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- r. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- s. Copeland Anti kickback Act - 18 U.S.C. 874.¹
- t. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- u. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- v. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- w. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

Executive Orders

- Executive Order 11246 - Equal Employment Opportunity¹
- Executive Order 11990 - Protection of Wetlands
- Executive Order 11988 - Flood Plain Management
- Executive Order 12372 - Intergovernmental Review of Federal Programs.
- Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- Executive Order 12898 - Environmental Justice

Federal Regulations

- a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
- b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 14 CFR Part 150 - Airport noise compatibility planning.
- d. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹

- h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- i. 49 CFR Part 20 - New restrictions on lobbying.
- j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.^{1,2}
- m. 49 CFR Part 26 - Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
- n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.¹
- o. 49 CFR Part 29 - Government wide debarment and suspension (non-procurement) 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 the grant agreement.

2. Responsibility and Authority of the Sponsor.

- a. **Public Agency Sponsor:** It has legal authority to apply for the 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 the 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 the 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 the 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 the 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 the 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 the grant agreement and shall insure that such arrangement also requires compliance therewith.
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 the grant, the total cost of the project in connection with which the 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 the 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 the 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 the 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 the 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 Veterans of the Vietnam era and 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 the 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. Provided, however, that 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.
- 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 the 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; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. 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.

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, at the discretion of the Secretary, (1) be paid to the Secretary for deposit in the Trust Fund, or (2) be reinvested in an approved noise compatibility project as prescribed by the Secretary, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system, or (2) be paid to the Secretary for deposit in the Trust Fund if no eligible project exists.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.
32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.
33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated 6/22/2010 and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.
35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.
36. **Access By Intercity Buses.** The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.
37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure

non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

38. **Hangar Construction.** If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.
39. **Competitive Access.**
- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that
 1. Describes the requests;
 2. Provides an explanation as to why the requests could not be accommodated; and
 3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
 - b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date

CURRENT FAA ADVISORY CIRCULARS REQUIRED FOR USE IN AIP FUNDED AND PFC APPROVED PROJECTS

Dated: 6/2/2010

View the most current versions of these ACs and any associated changes at:
http://www.faa.gov/airports_airtraffic/airports/resources/advisory_circulars

NUMBER	TITLE
70/7460-1K	Obstruction Marking and Lighting
150/5000-13A	Announcement of Availability—RTCA Inc., Document RTCA-221, Guidance and Recommended Requirements for Airports Surface Movement Sensors
150/5020-1	Noise Control and Compatibility Planning for Airports
150/5070-6B Change 1	Airport Master Plans
150/5070-7	The Airport System Planning Process
150/5200-28D	Notices to Airmen (NOTAMS) for Airport Operators
150/5200-30C	Airport Winter Safety and Operations
150/5200-33B	Hazardous Wildlife Attractants On or Near Airports
150/5210-5D	Painting, Marking and Lighting of Vehicles Used on an Airport
150/5210-7D	Aircraft Fire and Rescue Communications
150/5210-13B	Water Rescue Plans, Facilities, and Equipment
150/5210-14B	Aircraft Rescue Fire Fighting Equipment, Tools, and Clothing
150/5210-15A	Airport Rescue & Firefighting Station Building Design
150/5210-18A	Systems for Interactive Training of Airport Personnel
150/5210-19A	Driver's Enhanced Vision System (DEVIS)
150/5220-4B	Water Supply Systems for Aircraft Fire and Rescue Protection
150/5220-13B	Runway Surface Condition Sensor Specification Guide
150/5220-16C	Automated Weather Observing Systems for Non-Federal Applications

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FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects
June 2, 2010

NUMBER	TITLE
150/5220-17A and Change 1	Design Standards for an Aircraft Rescue Firefighting Training Facility
150/5220-18A	Buildings for Storage and Maintenance of Airport Snow and Ice Control Equipment and Materials
150/5220-20 and Change 1	Airport Snow and Ice Control Equipment
150/5220-21B	Guide Specification for Lifts Used to Board Airline Passengers With Mobility Impairments
150/5220-22A	Engineered Materials Arresting System (EMAS) for Aircraft Overruns
150/5220-23	Frangible Connections
150/5220-24	Foreign Object Debris Detection Equipment
150/5300-13 and Changes 1 –15	Airport Design
150/5300-14B	Design of Aircraft Deicing Facilities
150/5300-16A	General Guidance and Specifications for Aeronautical Surveys: Establishment of Geodetic Control and Submission to the National Geodetic Survey
150/5300-17B	General Guidance and Specifications for Aeronautical Survey Airport Imagery Acquisition
150/5300-18B	General Guidance and Specifications for Submission of Aeronautical Surveys to NGS: Field Data Collection and Geographic Information System (GIS) Standards
150/5320-5C and Change 1	Surface Drainage Design
150/5320-6E	Airport Pavement Design and Evaluation
150/5320-12C and Changes 1 through 8	Measurement, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces
150/5320-14	Airport Landscaping for Noise Control Purposes

FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects
June 2, 2010

NUMBER	TITLE
150/5320-15A	Management of Airport Industrial Waste
150/5325-4B	Runway Length Requirements for Airport Design
150/5335-5A	Standardized Method of Reporting Airport Pavement Strength PCN
150/5340-1J and Change 2	Standards for Airport Markings (Change 1&2)
150/5340-5C	Segmented Circle Airport Marker System
150/5340-18E	Standards for Airport Sign Systems
150/5340-30D	Design and Installation Details for Airport Visual Aids
150/5345-3F	Specification for L821 Panels for the Control of Airport Lighting
150/5345-5B	Circuit Selector Switch
150/5345-7E	Specification for L824 Underground Electrical Cable for Airport Lighting Circuits
150/5345-10F	Specification for Constant Current Regulators Regulator Monitors
150/5345-12E	Specification for Airport and Heliport Beacon
150/5345-13B	Specification for L841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits
150/5345-26D	Specification for L823 Plug and Receptacle, Cable Connectors
150/5345-27D	Specification for Wind Cone Assemblies
150/5345-28F	Precision Approach Path Indicator (PAPI) Systems
150/5345-39C	FAA Specification L853, Runway and Taxiway Retroreflective Markers
150/5345-42F	Specification for Airport Light Bases, Transformer Housings, Junction Boxes and Accessories
150/5345-43F	Specification for Obstruction Lighting Equipment
150/5345-44H	Specification for Taxiway and Runway Signs
150/5345-45C	Low-Impact Resistant (LIR) Structures

FAA Advisory Circulars Required for Use in AIP-Funded and PFC Approved Projects
 June 2, 2010

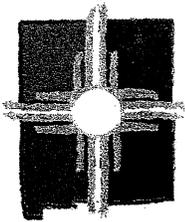
NUMBER	TITLE
150/5345-46D	Specification for Runway and Taxiway Light Fixtures
150/5345-47B	Specifications for Series to Series Isolation Transformers for Airport Lighting System
150/5345-49C	Specification L854, Radio Control Equipment
150/5345-50B	Specification for Portable Runway and Taxiway Lights
150/5345-51A	Specification for Discharge-Type Flasher Equipment
150/5345-52A	Generic Visual Glideslope Indicators (GVGI)
150/5345-53C	Airport Lighting Equipment Certification Program
150/5345-54B	Specification for L-1884, Power and Control Unit for Land and Hold Short
150/5345-55A	Specification for L893, Lighted Visual Aid to Indicate Temporary Runway Closure
150/5345-56A	Specification for L-890 Airport Lighting Control and Monitoring System (ALCMS)
150/5360-9	Planning and Design of Airport Terminal Facilities at NonHub Locations
150/5360-12E	Airport Signing and Graphics
150/5360-13 and Change 1	Planning and Design Guidance for Airport Terminal Facilities
150/5370-2E	Operational Safety on Airports During Construction
150/5370-10E	Standards for Specifying Construction of Airports
150/5370-11A	Use of Nondestructive Testing Devices in the Evaluation of Airport Pavement
150/5380-6B	Guidelines and Procedures for Maintenance of Airport Pavements
150/5390-2B	Heliport Design
150/5390-3	Vertiport Design
150/5395-1	Seaplane Bases

**THE FOLLOWING ADDITIONAL APPLY TO AIP PROJECTS ONLY
 DATED: 6/2/2010**

NUMBER	TITLE
150/5100-14D	Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects
150/5100-15A	Civil Rights Requirements for the Airport Improvement Program
150/5100-17 and Changes 1 through 6	Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects
150/5200-37	Introduction to Safety Management Systems (SMS) for Airport Operators
150/5300-15A	Use of Value Engineering for Engineering Design of Airports Grant Projects
150/5320-17	Airfield Pavement Surface Evaluation and Rating (PASER) Manuals
150/5370-6D Change 1-4	Construction Progress and Inspection Report – Airport Grant Program
150/5370-12A	Quality Control of Construction for Airport Grant Projects
150/5370-13A	Offpeak Construction of Airport Pavements Using Hot-Mix Asphalt
150/5380-7A	Airport Pavement Management Program
150/5380-8A	Handbook for Identification of Alkali-Silica Reactivity in Airfield Pavements

**THE FOLLOWING ADDITIONAL APPLY TO PFC PROJECTS ONLY
 DATED: 6/2/2010**

NUMBER	TITLE
150/5000-12	Announcement of Availability – Passenger Facility Charge (PFC) Application (FAA Form 5500-1)



New Mexico DEPARTMENT OF
TRANSPORTATION
MOBILITY FOR EVERYONE

Respond to:

NEW MEXICO AVIATION DIVISION
P.O. Box 9830
Albuquerque, NM 87119
505-244-1788 phone
505-244-1790 fax

NOTICE TO PROCEED

6/18/2010

Las Cruces International Airport
Lisa Murphy
Airport Manager
P.O. Box 20000
Las Cruces, NM 88004

Re: LRU-10-001
Wildlife Hazard Assessment

Dear Ms. Murphy:

Please consider this letter as official NOTICE TO PROCEED on the above referenced project between the city and the Aviation Division, which authorizes you to proceed with the scope of services outlined in this Agreement. This Agreement shall not exceed the amount stated in the grant agreement including applicable gross receipts taxes.

Please sign and return to:

NMDOT Aviation Division
PO Box 9830
Albuquerque, NM 87119

Bill Richardson
Governor

Gary L. J. Giron
Cabinet Secretary

David C. Ploeger
Division Director



ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by:

Lisa L Murphy for City of Las Cruces

this the 4 day of August, 2010

By: Lisa L Murphy

Lisa L. Murphy
Print Name

GRANT OVERVIEW WORKSHEET

Title of Grant Program: Airport Improvement Program

Funding Organization: Federal Aviation Administration

Section Applying: Facilities / Airport

Description of Proposed Project: Expected FAA AIP funding for the following airport projects: (See attached sheet)

Strategic Plan Performance Budget	Goal: Goal:	Objective: Objective:	Strategic Plan: Strategic Plan:
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- Existing City Programs/Efforts** *(Ex: request for environmentally-friendly weed management. Parks and Recreation Section's existing budget and work activities include weed management)*
 - Expansion of Existing Program/Efforts** *(Ex: request for advertising to increase public awareness of the Farmer's market. The advertising campaign will be an increase over current activities/budget)*
 - New Initiative, Not Budgeted** *(Ex: request to implement a recreational activity that is currently not included in the City's recreations programs)*
-

Project Maintenance *If the grant specifies that the project must be maintained/operated after the grant period ends, list the requirements:*

Amount Section anticipates requesting: \$902,000	Match Requirement (%) .025%
Projected Match In-kind:	Cash: \$22,550
Match Source: General Fund	

Grant Application Due: _____ **Grant Duration (Months/years):** 3 years

MOU or Joint Powers Agreement Required:

Grant Collaborators *(List other City Departments or Outside Agencies):*
NMDOT State Aviation Division

Employees To Be Hired *(number to be hired, full-time or part-time positions and 1 sentence job responsibilities):*
NONE

GRANT OVERVIEW WORKSHEET

Grant Manager *(Responsible for contract, project operations, budget management, and reports as prescribed)*

Name: Lisa Murphy

Title: Airport Administrator

Phone: 541-2473

E-mail: lmurphy@las-cruces.org

Submitted by: Lisa Murphy

Signature: 

Date: January 19, 2010

Reviewed & Approved by:

Signature: _____

Date:

GRANT OVERVIEW WORKSHEET

Description of Proposed Projects:



Wildlife Hazard Assessment - \$95,000

Replacement AWOS - \$237,000

Electronic Airport Layout Plan Survey - \$570,000

RESOLUTION NO. 10-258

A RESOLUTION AUTHORIZING THE APPLICATION FOR TWO GRANTS FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION, AVIATION DIVISION, FOR PROJECTS AT THE LAS CRUCES INTERNATIONAL AIRPORT, ONE IN THE APPROXIMATE AMOUNT OF \$6,250 FOR THE REPLACEMENT OF THE AUTOMATED WEATHER OBSERVATION SYSTEM (AWOS) AND ONE IN THE APPROXIMATE AMOUNT OF \$2,493 FOR A WILDLIFE HAZARD ASSESSMENT.

The City Council is informed that:

WHEREAS, the City of Las Cruces, New Mexico, a municipal corporation, is the owner of certain real property known as the Las Cruces International Airport; and

WHEREAS, the Federal Aviation Administration has identified the City's Automated Weather Observation System (AWOS) as needing replacement; and

WHEREAS, the Federal Aviation Administration is requiring airports to conduct Wildlife Hazard Assessments to mitigate hazards to aviation; and

WHEREAS, the FAA has identified these projects as eligible for a Fiscal Year 2010 -11 Airport Improvement Fund grant; and

WHEREAS, grants from the New Mexico Department of Transportation, Aviation Division, may be available to provide matching funds for these projects; and

WHEREAS, fully executed grant applications, signed by the Mayor, must be submitted to the State to apply for these funds.

NOW, THEREFORE, be it resolved by the governing body of the City of Las Cruces:

(1)

THAT Airport Staff is authorized to apply for two grants from the New Mexico Department of Transportation, one in the approximate amount of \$6,250 for a new AWOS, and one in the approximate amount of \$2,493 for a Wildlife Hazard Assessment at the Las Cruces International Airport.

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(II)

THAT the Mayor is authorized to sign the grant applications on behalf of the Airport.

(III)

THAT funds for these projects are subject to appropriation in Fiscal Year 2010-2011.

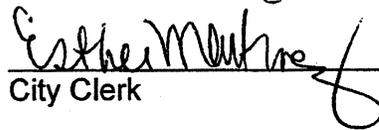
DONE AND APPROVED this 19th day of April, 2010.

APPROVED:



Mayor

ATTEST:



City Clerk

VOTE:

Mayor Miyagishima:	<u>Aye</u>
Councillor Silva:	<u>Aye</u>
Councillor Connor:	<u>Aye</u>
Councillor Pedroza:	<u>Aye</u>
Councillor Small:	<u>Absent</u>
Councillor Sorg:	<u>Aye</u>
Councillor Thomas:	<u>Aye</u>

Moved by: Thomas

Seconded by: Connor

APPROVED TO FORM:



City Attorney