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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 8 Ordinance/Resolution# 12-168

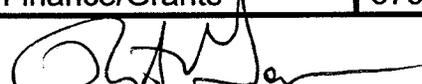
For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of April 2, 2012
 (Adoption Date)

TITLE: A RESOLUTION AUTHORIZING THE LAS CRUCES INTERNATIONAL AIRPORT TO ACCEPT A NEW MEXICO DEPARTMENT OF TRANSPORTATION, AVIATION DIVISION GRANT IN THE AMOUNT OF \$173,415.00 WITH A LOCAL MATCH REQUIREMENT OF \$173,415.00 FOR UPGRADES TO THE FUEL FARM, TO RATIFY THE CITY MANAGER'S SIGNATURE ON THE GRANT AGREEMENT, AND TO ADJUST THE FY 2012 BUDGET.

PURPOSE(S) OF ACTION:

To accept grant, ratify signature, and adjust budget.

COUNCIL DISTRICT: ALL		
<u>Drafter/Staff Contact:</u> Elizabeth Vega	<u>Department/Section:</u> Finance/Grants	<u>Phone:</u> 575-541-2717
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The Las Cruces International Airport (LRU) has an area where aviation fuel storage tanks and loading equipment are kept, which is known as the Fuel Farm. The New Mexico Environment Department has issued new regulations that govern above-ground storage tanks which affects the compliance of the tanks located at LRU. Discussions with NMED have indicated that failure to comply with these regulations, pursuant to New Mexico Administrative Code 20.5.4, can result in fines and penalties for the Airport.

The upgrades to the City-owned equipment at the Fuel Farm will be substantial, including replacement of the existing single-walled tanks with compliant double-walled tanks, earthwork to remove an existing secondary containment dike system, pouring of concrete slabs, installation of a concrete pit for the loading rack, and new accessories including pumps, pipes, and hoses. Airport staff has obtained a preliminary estimate to do the Fuel Farm work in the amount of \$346,830.00. The New Mexico Department of Transportation, Aviation Division, has expressed a willingness to assist in funding this project, based on fund availability. State Aviation Division grants are only available for up to 50% of project costs, which would leave the City responsible for funding the remainder of the project, or approximately \$173,415.00.

(Continue on additional sheets as required)

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Award Letter.
3. Exhibit "B", Budget Adjustment.

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 checked="" type="checkbox"/>	Funds will be deposited into this fund: <u>4300 Airport Operating Fund</u> in the amount of <u>\$173,415.00</u> for FY 2012.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

Grant funds of \$173,415.00 will be deposited into Fund #4300 (Airport Improvement Fund) under project #70B16 to be used by the Las Cruces International Airport (LRU) to pay for upgrades to the city-owned equipment at the fuel farm. Match funds will come from Fund #4001 (Facilities General Fund) in the amount of \$173,415.00. Total project cost will therefore be \$346,830.00 as outlined in the award letter.

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
Airport Improvement Fund	43803020-851200-70B16	\$173,415.00	\$173,415.00*	\$0.00	N/A
Facilities General Fund(match)	40803020-851200-70B16	\$173,415.00	\$173,415.00*	\$0.00	N/A

*pending adjustment

(Continue on additional sheets as required)

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will accept grant funds from the New Mexico Department of Transportation, Aviation Division to be used by the Las Cruces International Airport (LRU) for upgrades to the fuel farm. It will also ratify the City Manager's signature on the grant agreement and adjust the FY 2012 budget.
2. Vote "No"; this is not an option since the City Manager has signed the grant agreement.
3. Vote to "Amend"; this is not an option as the grant agreement has been agreed upon by both parties.
4. Vote to "Table"; this not an option, as grant funds have been accepted.

REFERENCE INFORMATION:

N/A

RESOLUTION NO. 12-168

A RESOLUTION AUTHORIZING THE LAS CRUCES INTERNATIONAL AIRPORT TO ACCEPT A NEW MEXICO DEPARTMENT OF TRANSPORTATION, AVIATION DIVISION GRANT IN THE AMOUNT OF \$173,415.00 WITH A LOCAL MATCH REQUIREMENT OF \$173,415.00 FOR UPGRADES TO THE FUEL FARM, TO RATIFY THE CITY MANAGER'S SIGNATURE ON THE GRANT AGREEMENT, AND TO ADJUST THE FY 2012 BUDGET.

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 (LRU); and

WHEREAS, the LRU owns a fuel farm which is used for storage and dispensing of aviation fuel that will be out of compliance with the New Mexico Environment Department's regulations pursuant to New Mexico Administrative Code 20.5.4; and

WHEREAS, a grant from the New Mexico Department of Transportation, Aviation Division will provide \$173,415.00 which is fifty-percent (50%) of the funding to complete the needed fuel farm upgrades as demonstrated in Exhibit "A"; and

WHEREAS, the \$173,415.00 local match has been identified and will be budgeted to complete the total project costing \$346,830.00; and

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

(I)

THAT the Las Cruces International Airport is authorized to accept a grant in the amount of \$173,715.00, with a match requirement of \$173,715.00.

(II)

THAT the Council does ratify the signature of the City Manager accepting the grant agreement to meet submission deadline.

(III)

THAT the FY 2012 Adopted Budget is hereby adjusted as reflected in Exhibit "B", attached hereto and made a part of this resolution.

(IV)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this ____ day of _____, 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by _____

Seconded by _____

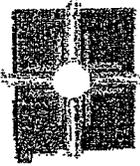
VOTE:

- Mayor Miyagishima: _____
- Councillor Silva: _____
- Councillor Smith: _____
- Councillor Pedroza: _____
- Councillor Small: _____
- Councillor Sorg: _____
- Councillor Thomas: _____

APPROVED AS TO FORM:



City Attorney



New Mexico DEPARTMENT OF
TRANSPORTATION

11/08/2011

City of Las Cruces
Attn: Lisa Murphy
PO Box 20000
Las Cruces, NM 88004-9002

RECEIVED
NOV 28 2011
New Mexico
State Aviation Division

RE: NMAD GRANT # LRU-11-001

To Whom It May Concern:

The above referenced grant agreement with the NMDOT Aviation Division states:

SECTION SIXTEEN - AMENDMENT:

This agreement shall not be altered, modified, or amended except by an instrument in writing and executed by the parties hereto.

This letter shall serve as an instrument in writing to extend this agreement until: 10/31/2013. All other terms and conditions will remain in effect.

NMDOT Aviation Division

By: *Stephen Summers* Date: 11/28/11

SPONSOR:

I agree to extend this Agreement on identical terms and conditions.

By: *[Signature]* Date: 11-18-11

Printed Name and Title: Robert Garza, City Manager

Susana Martinez
Governor

Alvin C. Dominguez, P.E.
Cabinet Secretary

Commissioners

Pete Rahn
Chairman
District 3

Debra Hicks
Vice Chairman
District 2

Dr. Kenneth White
Secretary
District 1

Ronald Schmelts
Commissioner
District 4

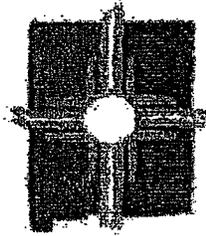
Butch Mathews
Commissioner
District 5

Jackson Gibson
Commissioner
District 6

DATE

March 15, 2010

STATE GRANT AGREEMENT FOR AIRPORT PROJECTS



New Mexico DEPARTMENT OF
TRANSPORTATION
MOBILITY FOR EVERYONE

AVIATION DIVISION

Sponsor Name

City of Las Cruces

Respond to:
NEW MEXICO AVIATION DIVISION
PO Box 9830
Albuquerque, NM 87119
506-244-1788 phone
505-244-1780 fax

Contract No. _____

Project No. LRU-11-001

Vendor No. 54342

Expiration Date 1-18-13

PART I - PROJECT INFORMATION

AGREEMENT between City of Las Cruces, New Mexico (hereinafter called the "Sponsor") and the State of New Mexico, acting through the New Mexico Department of Transportation, Aviation Division (hereinafter called the "Division"), for the purpose of carrying out the provisions of NMSA 1978, Section 64-1-13 of the Aviation Act (hereinafter called the "Act") and the Municipal Airport Law of 1978 (NMSA 1978, Section 3-39-1 et seq.). The Sponsor hereby makes application to the Division for state funds authorized in NMSA 1978, Section 64-1-13, for the purpose of aiding in financing an airport or aviation project (herein called the Project) at Las Cruces International Airport Airport.

Project Description:

Required upgrades to the LRU Fuel Farm.

FUNDING	STATE	SPONSOR	OTHER	TOTAL
REQUEST	\$ 173,415	\$ 173,415	\$	\$ 346,830

ROUND TO THE NEAREST DOLLAR

The site of development and items of work are more particularly described on the property map, "Exhibit A", attached hereto.
 Items of work, cost and source of funds are stated in "Exhibit B", also attached hereto.

REPRESENTATIONS

The Sponsor hereby represents and certifies the following:

1. **Legal Authority** - The Sponsor has the legal power and authority: (1) to do all things necessary in order to undertake and carry out the Project in conformity with the provisions stated in the New Mexico Aviation Act and Rules and Regulations pursuant thereto; (2) to accept, receive and disburse grants of funds from the State of New Mexico in aid of the Project; and (3) to carry out all provisions stated in this "Grant Agreement for Airport Projects."
2. **Defaults** - The Sponsor is not in default on any obligation to the State of New Mexico relative to the development, operation or maintenance of any airport or aviation project except as stated in "Exhibit C"
3. **Possible Disabilities** - The Sponsor states, by execution of this AGREEMENT, 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.
4. **Land** - 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 Project, subject to the following exceptions, encumbrances and adverse interests, of all which areas are identified in the aforementioned property map designated as "Exhibit A": The Sponsor further certifies that the aforementioned is based on a title examination by a qualified attorney or title company who has determined that the Sponsor holds the stated property interests.

ASSURANCES

The Sponsor hereby covenants and agrees with the Division as follows:

1. The Sponsor agrees that it will operate the airport receiving aid under this application for the use and benefit of the public on fair and reasonable terms, and without unjust discrimination.
2. The Sponsor specifically agrees that it will keep said airport open to all types, kinds and classes of aeronautical use without discrimination between such types, kinds, and classes: **provided**, that the Sponsor may establish such fair, equal 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; and **further provided**, that the Sponsor may with the approval of the Division 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 civilian aviation needs of the public.
3. The Sponsor agrees that in its operation of the airport and all facilities thereon, neither it nor any person or organization occupying space of facilities thereon will discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of the facility provided for the public on the airport; and further that any person, firm or corporation rendering service to the public on the airport will do so on a fair, equal and not unjustly discriminatory basis to all users thereof.
4. The Sponsor will operate and maintain in a safe and serviceable condition the airport and all facilities thereon and connected therewith which are necessary to serve the aeronautical users thereof and will not permit any activity thereon which would interfere with its use for airport purposes.
5. The Sponsor will, by acquisition of land interest, acquisition of easements, airspace zoning, or other accepted means, protect the runway approaches and the airspace in the immediate vicinity of the airport from the construction, alteration, erection or growth of any structure which would interfere with the use or operation of the airport.
6. The Sponsor agrees that no landing fee shall be charged any owner or operator of aircraft using said airport; which would be in violation of 64-1-16, NMSA 1978, as amended.
7. If said airport is on private land, the Sponsor has attached hereto, titled "Exhibit A-3," a duly executed agreement permitting public use of this land for airport purposes without limit as to time.
8. The Sponsor agrees to comply with the New Mexico Aviation Act and the rules and regulations promulgated there under.

PROJECT AGREEMENT

It is understood and agreed that all development included in such Project will be accomplished in accordance with the New Mexico Aviation Act and all Rules and Regulations pursuant thereto. It is understood and agreed that the work approved under this application will be commenced within one hundred and twenty days from the date this application is approved unless such longer time is prescribed by the Division. It being further understood and agreed that should the Sponsor fail to do those things described and approved on or before one year from the date this agreement is approved or a later date as may be prescribed by the Division that said grant shall, without notice, be withdrawn and reverted to the "State Aviation Funds."

It is understood that the grant approved under this AGREEMENT shall be paid subject to the availability of funds from the "State Aviation Fund."

NOW THEREFORE, in consideration of the Sponsor's adoption and ratification of the representations and assurances contained and its acceptance of the terms of this AGREEMENT, the parties agree as follows:

SECTION ONE - PURPOSE:

The Sponsor has submitted to the Division an AGREEMENT for a grant of State funds for a project at or associated with the aforementioned airport. The Division has approved the above referenced AGREEMENT and has agreed to pay, as the State's Share, 50 % of the Sponsor's share of all allowable cost for the project.

SECTION TWO - PROJECT FUNDING:

1. The funding for this project is as set forth on Exhibit B.
2. The maximum obligation of the State payable by the Division under this AGREEMENT is as set forth in Exhibit B.

SECTION THREE - SPONSOR SHALL:

1. Pay all costs, perform all labor, and supply all material, except as described in SECTION TWO of this AGREEMENT, for the purpose as described in SECTION ONE.
2. Provide a representative from its organization who shall serve as the single point of contact for the Division.
3. Maintain in force a **Maintenance Resolution** by which the Sponsor agrees to establish an airport maintenance program and appoint an individual to be responsible for its effectuation.
4. Initiate engineering, survey, and all other design activities, inspect Project construction and, coordinate all meetings.

5. Be responsible for all design and pre-construction activities including, but not limited to:
 - a. drainage and storm drain design;
 - b. geotechnical investigations;
 - c. pavement design;
 - d. use analysis;
 - e. structural design;
 - f. environmental and archaeological clearances;
 - g. airport layout plans
 - h. hazardous substance waste site(s) contamination investigations.
 6. Initiate and cause to be prepared all necessary documents including plans, specifications, and estimates (PS&E), and reports for this Project.
 7. Assure that all design and PS&E are performed under the direct supervision of a Registered New Mexico Professional Engineer.
 8. Design the Project in accordance with State and Federal guidelines and/or advisory circulars, hereby incorporated into this AGREEMENT.
 9. Notify the Division's designated engineer when the plans and specifications are sufficiently complete for review.
 10. Make no changes in design or scope of work without written approval of the Aviation Division.
 11. Advertise for and contract for the construction of the Project.
 12. Require the Engineer to prepare a final detail estimate of the work, indicating the bid items, the quantity in each item, the unit bid price and cost of the items based on low acceptable bid prices. Progress estimates shall be submitted to the Division in acceptable form so that details of quantities allowed on various items of work shall be shown on each progress payment. All detail estimates shall be in format approved by the Division.
 13. The Sponsor shall take all steps, including litigation if necessary, to recover State funds spent fraudulently, wastefully, or in violation of State statutes, or misused in any other manner on any project upon which State funds have been expended. For the purposes of this AGREEMENT, the term "State funds" means funds, however used or disbursed by the Sponsor, that were paid by the Division pursuant to this AGREEMENT. The Sponsor shall obtain the approval of the Division as to any determination of the amount of the State share of such funds. It shall return the recovered State share, including funds recovered by settlement, order, or judgment, to the Division. It shall furnish to the Division, upon request, all documents and records pertaining to the determination of the amount of the State share of any settlement, litigation, negotiation, or the efforts taken to recover such funds. All settlements or other final dispositions by the Sponsor, in court or otherwise, involving the recovery of such State share shall be approved in advance by the Division.
 14. The Sponsor shall, upon reasonable notice, allow the Division the right to inspect the project for the purposes of determining if it is being constructed in a good and workmanlike manner, and if the approved plans and specifications are being satisfactorily complied with. If such inspection discloses a failure to substantially meet such requirements and standards as, approved by the Division, the Division may terminate payment or payments until a mutually satisfactory remedy is agreed upon.
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15. The Sponsor does hereby ratify and adopt all assurances; statements, representations, warranties, covenants and, agreements contained in the AGREEMENT, and do hereby accept the Offer and by such acceptance agrees to comply with all of the terms and conditions in this AGREEMENT.
16. The Sponsor's acceptance of the Offer and ratification and adoption of the terms and conditions contained herein shall be evidenced by execution of this AGREEMENT, constituting the contractual obligations and rights of the Division and the Sponsor with respect to the accomplishment of the Project in accordance with all of the State's applicable laws and rules and in compliance with the assurances and conditions as provided herein. This AGREEMENT shall become effective upon the Divisions acceptance and upon complete execution of this AGREEMENT by all parties.

SECTION FOUR - DIVISION SHALL:

1. Assign a Technical Engineer as a contact person for this project.
2. Provide timely reviews of all submittals of scopes, plans, specifications, investigations or other documents.
3. Examine materials submitted for review; these items shall include the following:
 - a. Basic design concept;
 - b. Copies of plans, specifications, and estimates at 75% and 95% completion;
 - c. Required proofs of conformance with established design standards; and
 - d. Conformance with New Mexico Environment Department requirements, when applicable, with regard to the preliminary and final investigation of hazardous substance/waste site(s); and in conformance with the preliminary and final design for the removal of contaminates from the affected site(s).
4. The Division shall not provide an extensive check of any plans submitted by the Sponsor. Acceptance of plans by the Division does not relieve the Sponsor or its Consultant of their responsibility for errors and omissions.

SECTION FIVE - BOTH PARTIES AGREE:

1. Prior to the Notice to Proceed date, the Sponsor shall submit to the Division one complete set of plans and specifications which incorporate all comments and recommendations received during pre-bid activities and which have been fully executed by all involved parties.
2. The Sponsor shall obtain authorization from the Division prior to advertising the Project for bids.
3. If upon termination of this AGREEMENT there remain any properties, materials or equipment belonging to the Division, the Sponsor shall account for the same and dispose of them as directed by the Division.
4. The allowable costs of the Project shall not include costs determined by the Division to be ineligible for consideration under the Act.
5. The expenditure of any State money is subject to approval of all plans, specifications and other contract documents by the Division. The Sponsor shall comply with all applicable provisions of each of the referenced documents approved by the Division.

6. The Local Government's Road Fund shall not be used to administer this program, and no Sponsor receiving a distribution pursuant to a program requiring matching funds shall use another distribution made pursuant to NMSA 1978, Section 67-3-28.2, as amended.

SECTION SIX - COMPLIANCE WITH LAW:

The Sponsor shall comply with all Federal, State, and local laws and ordinances applicable to the work called for herein.

SECTION SEVEN - COMPLIANCE WITH EMPLOYMENT LAW AND COOPERATION WITH DEPARTMENT INVESTIGATIONS:

The Sponsor shall comply with all applicable Federal, State, and Department laws, regulations and policies, including, but not limited to laws governing, civil rights, equal opportunity compliance, environmental issues, workplace safety, employer-employee relations and all other laws governing operation of the workplace, including laws and regulations hereafter enacted. The Sponsor shall furnish all information and reports required by, or pursuant to, the rules, regulations, and policies of the Department, and will permit access to, and the interview of, its employees, and the, except for legally privileged material, examination and copying of its employee records by investigators for the Department's Equal Opportunity Programs Bureau, Office of Inspector General, and Risk Management Bureau, the New Mexico Attorney General's Office, the New Mexico Department of Labor, and all branches of the United States Department of Transportation; and will otherwise fully cooperate with all such investigations.

SECTION EIGHT - NEW MEXICO TORT CLAIMS ACT:

By entering into this AGREEMENT, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this AGREEMENT. Any liability incurred in connection with this AGREEMENT is subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et seq., NMSA 1978, as amended. This paragraph is intended only to define the liabilities between the parties hereto and it is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act. The Sponsor and its "public employees" as defined in the New Mexico Tort Claims Act, and the Department and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and/or do not waive any limitation of liability pursuant to law. No provision in this AGREEMENT modifies and/or waives any provision of the New Mexico Tort Claims Act.

SECTION NINE - ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS:

There shall be strict accountability for all receipts and disbursements relating hereto. The Sponsor shall maintain all records and documents relative to the Project for a minimum of three (3) years after completion of said Project. The Sponsor shall furnish the Division or State Auditor, upon demand, all records relevant to this AGREEMENT and allow them the right to audit all records which support the terms of this AGREEMENT.

SECTION TEN - AUTHORIZATION OF EXPENDITURES:

The terms of this AGREEMENT are contingent upon sufficient appropriations and authorizations being made by the Legislature of New Mexico, or the Congress of the United States if Federal funds are involved, for the performance of this AGREEMENT. If sufficient appropriations and authorizations are not made by the State Legislature or the Congress of the United States, if federal funds are involved, this AGREEMENT shall terminate upon written notice given by the Division to the Sponsor. The Division is expressly not committed to the expenditure of any funds until such time, as they are programmed, budgeted, encumbered and approved for expenditure by the Division. The Division's decision as to whether its funds are sufficient for the fulfillment of this AGREEMENT shall be final.

SECTION ELEVEN - REIMBURSEMENTS:

Funds expended by the Sponsor in accordance with the terms of this agreement shall be reimbursed by the Division to the Sponsor on a monthly basis. Interim reimbursement requests shall include a letter from the Sponsor requesting the amount due at that time and be accompanied by invoices from the parties to be paid by the Sponsor. The invoices shall total the amount to be paid at any time, of which the State share is a set percentage and/or fixed amount. Final reimbursement requests shall include a letter from the Sponsor requesting the amount due as the final payment and be accompanied by invoices from the parties to be paid by the Sponsor of which the State share is a set percent and/or fixed amount. The final payment request shall also be accompanied by proofs of payment that total the amount of money expended by the Sponsor on the Project. Proof of payment may be canceled checks or formal ledger entries. At the Sponsor's option, proofs of payment for interim pay requests may be submitted prior to the final payment request. All payment requests for projects in which the Sponsor is also directly receiving Federal money from the Federal Aviation Administration shall be accompanied by a copy of the Federal reporting form for reimbursement by which the Sponsor is requesting the federal share.

SECTION TWELVE - TERMINATION:

If the Sponsor fails to comply with any provision of this AGREEMENT, the Division has the option to terminate this AGREEMENT. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to termination of this AGREEMENT. This AGREEMENT shall expire two years from date of execution by all of the parties hereto.

SECTION THIRTEEN - MERGER:

This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written AGREEMENT. No prior agreement or understandings, verbal or otherwise, by parties or their agents shall be valid or enforceable unless embodied in this AGREEMENT. The terms of this AGREEMENT are lawful; performance of all duties and obligations herein shall conform with and do not contravene any State, local, or Federal statutes, regulations, rules, or ordinances.

SECTION FOURTEEN - EXECUTION OF AGREEMENT:

The AGREEMENT shall not take effect until executed by all of the parties hereto.

SECTION FIFTEEN - SEVERABILITY:

In the event that any portion of this contract is determined to be void, unconstitutional, or otherwise unenforceable, the remainder of this contract shall remain in full force and effect.

SECTION SIXTEEN - AMENDMENT:

This agreement shall not be altered, modified, or amended except by an instrument in writing and executed by the parties hereto.

Recommended by AVIATION DIVISION

Approved by the
NMDOT Aviation Division Director *(acting)*

Daniel R. Moran
Print Name

Jane M. Lucero
Print Name

By: 

By: Jane M. Lucero

Date: 12/20/2010

Date: 1-18-11

Approved as to form and legal sufficiency
by the NMDOT Office of General Counsel

By: Cynthia A. Clark
Assistant General Counsel

Date: 1-5-11

Executed this 1st day of December, 2010.

City of Las Cruces
Name of Sponsor

By: [Signature]
Sponsor's Designated Official Representative

Title: Mayor

(Seal)
Attest: [Signature]

Title: City Clerk

Certificate of Sponsor's Attorney

I, [Signature] acting as Attorney for the Sponsor, do hereby certify that in my opinion, the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of New Mexico. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor related thereto, and find that the acceptance thereof by said Sponsor and Sponsor's official representative have been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at Las Cruces this 29th day of November, 2010

[Signature]
Signature

EXHIBIT A AIRPORT PROPERTY MAP OR ALP (Submit with application/agreement)

EXHIBIT A-1 PLANS AND SPECIFICATIONS (Submit to Aviation Division Engineer for review when available)

EXHIBIT A-2 PROJECT ENGINEERING

(Project Engineer to provide the following information as it is available).

An estimate of the costs which would be incurred in providing the engineering data necessary to make an investigation, testing, estimates, prepare plans and specifications, supervise award of contract, prepare contract, stake the work, observe the work, make final inspection and final contract estimate. (Submit to Aviation Division Engineer for Review when available)

The work will be accomplished in accordance with the Federal Aviation Administration's Standards for Specifying Construction of Airports (Advisory Circular 150/5370-10, current edition).

EXHIBIT A-3 AIRPORT ON PRIVATE LAND

Attach duly executed agreement permitting public use of this land for airport purposes without limit as to time. If not applicable please note.

EXHIBIT A-4 AIRPORT ZONING AND LAND USE

Municipal Airport Law of 1978 (NMSA 1978, Section 3-39-1 et seq.)

Indicate if the city has adopted a zoning ordinance, date it was adopted and if a copy is on file with the NMDOT Aviation Division.

EXHIBIT A-5 SPONSOR OBLIGATED/COMMITTED FUNDS

This provides verification to the NMDOT Aviation Division that the Sponsor's share has been obligated / committed. The funds will be for use in defraying the costs of the project.

This must be submitted as part of the grant application/agreement to the NMDOT Aviation Division.

(Attach meeting minutes, resolution or other authorization stating the commitment of funding for the Sponsor's share of the cost of the project.)

EXHIBIT B PROJECT COSTS

SPONSOR City of Las Cruces

ITEM NO.	ITEM OF WORK AND DESCRIPTION	STATE FUNDS	SPONSOR'S FUNDS	OTHER FUNDS	TOTAL ESTIMATED COSTS
1	Upgrade airport fuel farm to bring into compliance with New Mexico Environment Department Regulations	\$ 173,415	\$ 173,415	\$	\$ 346,830
<input style="width: 30px; height: 20px;" type="text"/>		\$	\$	\$	\$
<input style="width: 30px; height: 20px;" type="text"/>		\$	\$	\$	\$
<input style="width: 30px; height: 20px;" type="text"/>		\$	\$	\$	\$
TOTALS		\$ 173,415	\$ 173,415	\$	\$ 346,830

EXHIBIT C DEFAULT STATEMENT

The Sponsor is not in default on any obligation to the State of New Mexico, or any agency of the State of New Mexico, relative to the development, operation or maintenance of any airport except as stated below in this Exhibit C.

Lisa Murphy
Signature

Airport Manager
Title

11-29-10
Date

3-35-0024-25
Sponsor's Federal Identification Number

EXHIBIT C-1 SUSPENDED/DEBARMENT STATEMENT

The Sponsor hereby specifically agrees that it shall not award the contract for which this grant is given, nor shall bidding documents be given to any contractor which or who is subject to suspension or debarment by the U.S. Department of Transportation or any of its agencies, or the New Mexico Department of Transportation at the time of the bidding or award of the contract. Violation of this provision shall void this grant.

Lisa Murphy
Signature

Airport Manager
Title

11-29-10
Date

3-35-0024-25
Sponsor's Federal Identification Number

PROJECT CLOSE-OUT DOCUMENTS**CLOSE OUT REQUIREMENTS**

The final payment request shall also be accompanied by proofs of payment that total the amount of money expended by the Sponsor on the Project. Proof of payment may be canceled checks or formal ledger entries before the final reimbursement can be released by the Division.

1. Final Inspection Forms

Once a construction project is completed, a final inspection and acceptance of the project are required. The Division must be made aware of the time and place of the final inspection, in writing. Two weeks notice is preferred. One of the Division's staff will be in attendance. The following three forms are to be used for the final inspection/final acceptance process.

- a. Notice of Final Inspection
- b. Final Inspection Report
- c. Project Acceptance

2. Financial and Compliance Project Audit

A satisfactory financial and compliance audit of the project will be completed by the Division before the balance of funds will be released.

3. Updated Airport Layout Plan

After the project completion, if the project causes a facility change, another Airport Layout Plan will be submitted showing the scope of the project actually completed. The balance of the funds cannot be released until the revised ALP is received by the Division.

4. Material Test Results

Prior to final acceptance of the project, summary documentation of materials and construction quality tests shall be provided to the Division by the Sponsor or the Sponsor's Engineer.

5. As - Built Plans

After project completion and prior to release of final reimbursement the Sponsor will provide the Aviation Division a copy of the as - built plans and/or record drawings.

EXHIBIT A

**THE BOUNDARY OF
LAS CRUCES INTERNATIONAL AIRPORT**
IN SECTIONS 13, 14, 21, 22, 23, 24, 25,
26, 27, 28, 29, AND 30, T. 25S., R. 17W.,
S.A.P.M. OF THE U.S.G.L.O. SURVEYS
LAS CRUCES, DONA ANA COUNTY, NEW MEXICO.

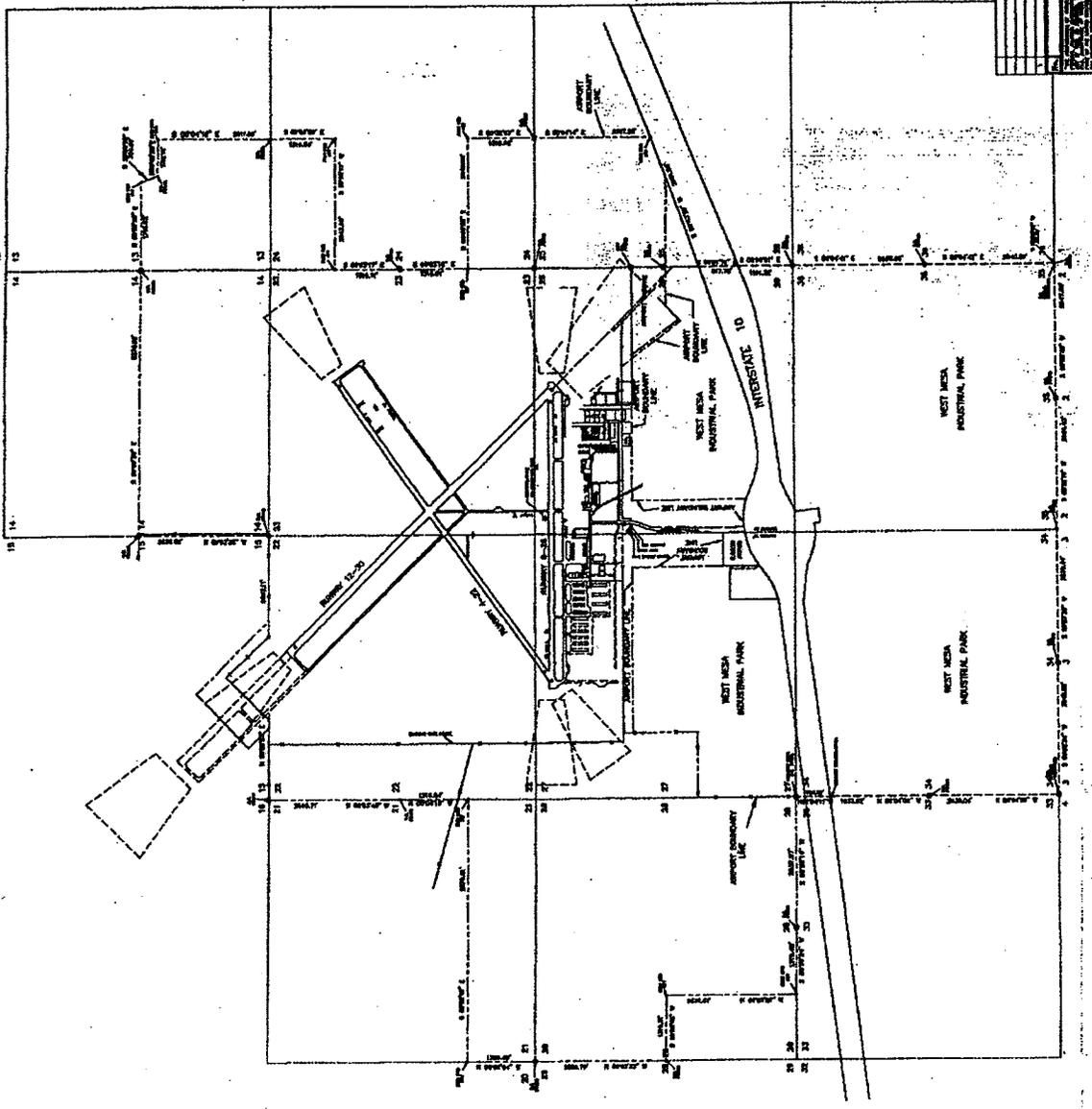
THE AIRPORT IS LOCATED IN SECTIONS 13, 14, 21, 22, 23, 24, 25, 26, 27, 28, 29, AND 30, T. 25S., R. 17W., S.A.P.M. OF THE U.S.G.L.O. SURVEYS, LAS CRUCES, DONA ANA COUNTY, NEW MEXICO. THE AIRPORT IS BOUNDARY OF THE AIRPORT IS SHOWN BY A DASHED LINE ON THIS MAP.

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Las Cruces International Airport
AIRPORT PROPERTY MAP

Las Cruces, New Mexico

Prepared by: [Name]
Date: [Date]

Scale: [Scale]

Sheet 8 of 8

**AIP 3-35-0024-25
WILDLIFE HAZARD ASSESSMENT**

EXHIBIT A-3 AIRPORT ON PRIVATE LAND

The Las Cruces International Airport is owned by the City of Las Cruces, and is a public use airport.

EXHIBIT A-4 AIRPORT ZONING AND LAND USE

City Ordinance 2460 was adopted by City Council on June 23, 2008, and established an Airport Overlay Zoning District.

RESOLUTION NO. 10-257

A RESOLUTION AUTHORIZING THE APPLICATION FOR A GRANT FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION, AVIATION DIVISION, IN THE AMOUNT OF \$173,414.22 FOR REQUIRED UPGRADES TO THE LAS CRUCES INTERNATIONAL AIRPORT FUEL FARM.

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 Airport owns a Fuel Farm which is used for storage and dispensing of aviation fuel; and

WHEREAS, the Fuel Farm will be out of compliance with New Mexico Environment Department Regulations pursuant to NMAC 20.5.4 as of July 1, 2011; and

WHEREAS, a grant from the New Mexico Department of Transportation, Aviation Division, may be available to provide up to 50% of the funding to complete the needed Fuel Farm upgrades; and

WHEREAS, a fully executed grant application, 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:

(I)

THAT Airport Staff is authorized to apply for a grant from the New Mexico Department of Transportation, Aviation Division, in the amount of \$173,414.22 for upgrades to the Las Cruces International Airport Fuel Farm.

(II)

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

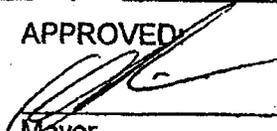
Resolution No. 10-257
Page 2

(III)

THAT funds for this project are subject to appropriation in the City's Fiscal Year 2010-2011 budget.

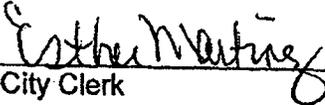
DONE AND APPROVED this 19th day of April, 2010.

APPROVED:



Mayor

ATTEST:



City Clerk

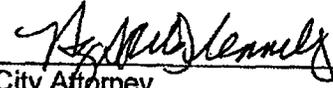
VOTE:

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

Moved by: Sorg

Seconded by: Thomas

APPROVED TO FORM:



City Attorney

**CITY OF LAS CRUCES
ADOPTED BUDGET FY 2011/2012**

FUND	DIVISION		FUND TYPE	
Facilities Improvements Fund (General) Fund 4001	Facilities		Capital Project	
	FY 2010/11 Preliminary	FY 2011/12 Adopted	FY 2011/12 Adjustment	FY 2011/12 Adjusted
RESOURCES				
Beginning Balance	\$ 2,704,024	3,409,012		3,409,012
REVENUES				
570010 Interest on Investments	62,848	75,000		75,000
570015 Net Incr/Decr Fair Value Investment	(41,812)	0		0
570050 Energy Efficiency Revenue	1,876	0		0
Total Revenues	\$ 22,912	75,000	0	75,000
Total Resources	\$ 2,726,936	3,484,012	0	3,484,012
EXPENDITURES				
40803020 Infrastructure Rehab	\$ 806,906	2,451,391		2,451,391
60D02 City Hall Complex - General Fund	13,521	396,279		396,279
60D06 City Hall Facilities IT Infrastructure	147,587	0		0
60D05 City Hall IT Infrastructure	0	0		0
60506 Convention Center	0	14,180		14,180
60910 La Casa Contribution	2,115	21,605		21,605
70B12 Rehab Taxiway A FY2011-12	0	144,314		144,314
70B13 Electronic Airport Layout Plan	0	11,016		11,016
70B16 Airport Fuel Farm Improvement	0	0	173,415	173,415
Total Expenditures	\$ 970,129	3,038,785	173,415	3,212,200
OTHER FINANCING SOURCES (USES)				
Transfer from Fund 1000 - General Fund	\$ 1,585,000	1,334,123		1,334,123
Transfer from Fund 1102 - City Hall Furnishings	67,205	0		0
Total Other Financing Sources (Uses)	1,652,205	1,334,123	0	1,334,123
ENDING BALANCE	\$ 3,409,012	1,779,350	(173,415)	1,605,935

EXHIBIT "B" CONTINUED

CITY OF LAS CRUCES
ADOPTED BUDGET FY 2011/2012

FUND	DIVISION		FUND TYPE	
Airport Improvement Fund 4300	Transportation		Capital Project	
	FY 2010/11 Projected*	FY 2011/12 Adopted	FY 2011/12 Adjustment	FY 2011/12 Adjusted
RESOURCES				
Beginning Balance	\$ 737,962	748,499		748,499
REVENUES				
570010 Interest Income	\$ 17,218	20,000		20,000
570015 Net Incr (Decr) Fair Value Investment	(1,803)	0		0
70B03 FAA Airport Lights/Signs	(4,878)	0		0
70B08 Rehab Runway 12-30	0	9,844		9,844
70B09 Rehab Runway 12-30	363,614	929,647		929,647
70B09 Rehab Runway 12-30	9,569	0		0
70B10 Automated Weather Observation System FAA	156,698	155,853		155,853
70B10 Automated Weather Observation System State	4,124	4,820		4,820
70B12 Rehab Taxiway A - FAA	0	5,483,879		5,483,879
70B12 Rehab Taxiway A - State	0	144,312		144,312
70B13 Electronic Airport Layout Plan (eALP) - FAA	0	418,589		418,589
70B13 Electronic Airport Layout Plan (eALP) - State	0	11,015		11,015
70B16 Airport Fuel Farm Improvement	0	0	173,415	173,415
70C00 FAA Grant - Air Traffic Control Tower Phase I	575,153	457,870		457,870
Total Revenues	\$ 1,119,695	7,635,829	173,415	7,809,244
Total Resources	\$ 1,857,657	8,384,328	173,415	8,557,743
EXPENDITURES				
70B08 Rehab Runway 12-30	0	9,844		9,844
70B09 Rehab Runway 12-30	373,183	929,647		929,647
70B10 Automated Weather Observation System	160,822	160,673		160,673
70B12 Rehab Taxiway A	0	5,628,191		5,628,191
70B13 Electronic Airport Layout Plan (eALP)	0	429,604		429,604
70B16 Airport Fuel Farm Improvement	0	0	173,415	173,415
70C00 Air Traffic Control Tower	575,153	457,870		457,870
Total Expenditures	\$ 1,109,158	7,615,829	173,415	7,789,244
ENDING BALANCE	\$ 748,499	768,499	0	768,499