

RESOLUTION NO. R2023-50

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AUTHORIZING AMERICAN RESCUE PLAN ACT GRANT (ARPA) FUNDING FROM THE FEDERAL AVIATION ADMINISTRATION THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION - AVIATION DIVISION; AND AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS AND TAKE ACTIONS TO FACILITATE SUCH ACCEPTANCE.

Whereas, the American Rescue Plan Act of 2021 (H.R. 1319, Public Law 117-2), signed into law by President Biden on March 11, 2021, includes \$8 billion in funds to be awarded as economic assistance to eligible U.S. airports to prevent, prepare for, and respond to the coronavirus disease 2019 (COVID-19) pandemic; and

Whereas, to distribute these funds, the Federal Aviation Administration (FAA) has established the Airport Rescue Plan Grants. The FAA will make grants to all airports that are part of the national airport system, including all commercial service airports, all reliever airports, and public-owned general aviation airports. Texas participates in the FAA's State Block Grant Program, wherein the Texas Department of Transportation (TxDOT) - Aviation Division acts as FAA's agent for the distribution of grant funds to general aviation airports in the state. TxDOT requested the federal funds on behalf of all eligible Texas General Aviation Airports; and

Whereas, TxDOT has provided a request form (application) for ARPA grant funding. TxDOT has been authorized to issue grants by the approval of the Texas Transportation Commission. The ARPA grant amount allocated to Burnet Municipal Airport is \$32,000. The grant funding will be provided as a reimbursement for eligible expenses to be submitted to TxDOT with an ARPA Request for Reimbursement Form.

Whereas, City Council deems it in the public interest to apply for such assistance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section one. Recitals. The recitals, set out above, are incorporated herein for all purposes.

Section two. Application and acceptance approve. The application for a ARPA Act Grant, and acceptance of an award of funds from said grant, is hereby approved.

Section three. City Manager Authorization. The City Manager is hereby authorized and directed to execute such applications and ancillary documents and take such actions as is reasonably necessary to facilitate the purpose of this Resolution.

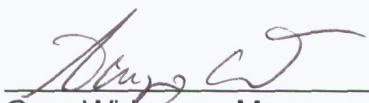
Section four. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, as modified by the governor's orders in response to the COVID-19 pandemic.

Section five. Effective Date. This resolution shall take effect upon approval and adoption by City Council.

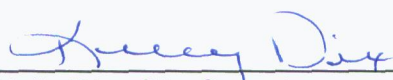
PASSED AND APPROVED this 27th day of June, 2023.

CITY OF BURNET, TEXAS

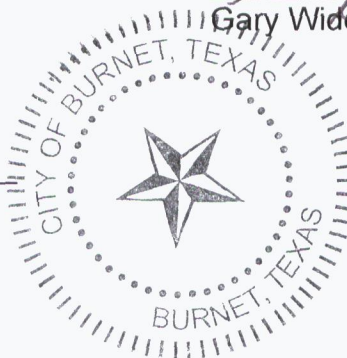
ATTEST:



Gary Wideman, Mayor



Kelly Dix, City Secretary



**TEXAS DEPARTMENT OF TRANSPORTATION
AIRPORT RESCUE PLAN ACT GRANT AGREEMENT**

PART I – OFFER

Offer Date	<u>April 27, 2023</u>
Airport	<u>Burnet Municipal Airport - Kate Craddock Field</u>
Grant/Project Number	<u>22CVBRNET</u>
Unique Entity Identifier	<u>V3DRF9YK7MB5</u>
TO:	<u>City of Burnet, Texas (herein called the "Sponsor")</u>

FROM: The State of Texas, acting through the Texas Department of Transportation (herein called the "State")

WHEREAS, the Sponsor has submitted to the State a Request for FY 2021 Airport Rescue Grant Program Funding, dated April 24, 2023, for a grant of Federal funds at or associated with Burnet Municipal Airport - Kate Craddock Field;

This Grant Agreement, (hereinafter called "Grant"), is made and entered into by and between the Texas Department of Transportation, (hereinafter referred to as the "State"), for and on behalf of the State of Texas, and City of Burnet, Texas, (herein called the "Sponsor").

WHEREAS, City of Burnet has accepted the terms of the State's Grant offer;

WHEREAS, in consideration of the promises, representations and assurances provided by the Sponsor, the State has approved the request for funding for Burnet Municipal Airport - Kate Craddock Field consisting of the following

WHEREAS, the purpose of this Grant is to prevent, prepare for, and respond to coronavirus. Funds provided under this Grant must only be used for purposes directly related to the airport and shall be provided to such covered airport using this Grant which include the terms, conditions, and assurances attached hereto. Such purposes can include the reimbursement of an airport's costs related to operations, personnel, cleaning, sanitization, janitorial services, and combating the spread of pathogens in accordance with the limitations prescribed in the Act and incurred no earlier than January 20, 2020. This Grant also may be used to reimburse a Sponsor's payment of debt service where such payments occur on or after March 11, 2021. Funds provided under this Grant will be governed by the same principles that govern "airport revenue." New airport development projects not directly related to combatting the spread of pathogens may not be funded with this Grant.

NOW THEREFORE, in accordance with the applicable provisions of the American Rescue Plan Act of 2021 ("ARP Act or the Act"), Public Law 117-2, the representations contained in Airport Rescue Grant Request for Funding, and in consideration of (a) the Sponsor's acceptance of this Offer; and, (b) the benefits to accrue to the United States and the public from the accomplishment of the Grant and in compliance with the conditions as herein provided,

THE TEXAS DEPARTMENT OF TRANSPORTATION, FOR AND ON BEHALF OF THE STATE OF TEXAS, HEREBY OFFERS AND AGREES to pay 100% percent of the allowable costs incurred as a result of and in accordance with this Grant.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and **SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$32,000

2. **Period of Performance.** The period of performance shall commence on the date the Sponsor formally accepts this Grant. The end date of the period of performance is August 19, 2025.

The Sponsor may only charge allowable costs for obligations incurred prior to the end date of the period of performance (2 CFR § 200.309). Unless the State authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 90 calendar days after the end date of the period of performance (2 CFR § 200.343).

The period of performance end date shall not affect, relieve or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant.

3. **Unallowable Costs.** The Sponsor shall not seek reimbursement for any costs that the State has determined to be unallowable under the ARP Act.

4. **Final Federal Share of Costs.** The United States' share of allowable Grant costs is 100%.

5. **Completing the Grant without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the Grant without undue delays and in accordance with this Grant, the ARP Act, and the regulations, policies, standards and procedures of the Secretary of Transportation ("Secretary"). Pursuant to 2 CFR § 200.308, the Sponsor agrees to report to the State any disengagement from funding eligible expenses under the Grant that exceeds three months and request prior approval from State. The report must include a reason for the stoppage. The Sponsor agrees to comply with the attached assurances, which are part of this Grant and any addendum that may be attached hereto at a later date by mutual consent.

6. **Amendments or Withdrawals before Grant Acceptance.** The State reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.

7. **Offer Expiration Date.** This offer will expire and the State will not be obligated to pay any part of the costs unless this offer has been accepted by the Sponsor on or before June 30, 2025, or such subsequent date as may be prescribed in writing by the State.

8. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner, including uses that violate this Grant, the ARP Act or other provision of applicable law. For the purposes of this Grant, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement(s). The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the State. The Sponsor must furnish to the State, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts

taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the State.

9. **State of Texas Not Liable for Damage or Injury.** The State is not responsible or liable for damage to property or injury to persons which may arise from, or relate to this Grant, including, but not limited to, any action taken by the Sponsor related to or arising from, directly or indirectly, this Grant.
10. **Electronic Grant Payment(s).** The Sponsor must use the eGrants system to electronically submit each pay request, and associated support documentation. The State will provide payment request forms to upload with supporting documentation. The State will review invoices manually to ensure payment eligibility and is committed to processing payments in a timely manner.
11. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
12. **Buy American.** Unless otherwise approved in advance by the State, in accordance with 49 U.S.C. § 50101 the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured goods produced outside the United States to be used for any permitted use for which funds are provided under this Grant. The Sponsor will include a provision implementing Buy American in every contract under this Grant.
13. **Audits for Private Sponsors.** When the period of performance has ended, the Sponsor must provide a copy of an audit of this Grant prepared in accordance with accepted standard audit practices, such audit to be submitted to the State.
14. **Audits for Public Sponsors.** The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. Upon request of the State, the Sponsor shall provide one copy of the completed audit to the State.
15. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:
 - A. Verify the non-Federal entity is eligible to participate in this Federal program by:
 1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-federal entity is excluded or disqualified; or
 2. Collecting a certification statement from the non-federal entity attesting the entity is not excluded or disqualified from participating; or
 3. Adding a clause or condition to covered transactions attesting the individual or firm is not excluded or disqualified from participating.
 - B. Require prime contractors and subcontractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions (e.g. sub-contracts).
 - C. Immediately disclose to the State whenever the Sponsor (1) learns the Sponsor has entered into a covered transaction with an ineligible entity, or (2) suspends or debars a contractor, person, or entity.

16. Ban on Texting While Driving.

- A. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 - 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to this Grant.
 - 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- B. The Sponsor must insert the substance of this clause on banning texting while driving in all contracts and subcontracts.

17. Trafficking in Persons.

- A. The Sponsor, as the recipient, and the Sponsor's employees, under this award, may not —
 - 1. Engage in severe forms of trafficking in persons during the period of time this Grant is in effect;
 - 2. Procure a commercial sex act during the period of time that the award is in effect; or
 - 3. Use forced labor in the performance of the Grant.
- B. The State as the awarding agency may unilaterally terminate this award, without penalty, if a Sponsor that is a private entity —
 - 1. Is determined to have violated a prohibition in paragraph A of this Grant term; or
 - 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph A of this Grant term through conduct that is either—
 - a. Associated with performance under this award; or
 - b. Assigned to the Sponsor using the standards and due process for directing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 2 CFR Part 1200.
 - 3. The Sponsor must inform the State immediately of any information received from any source alleging a violation of a prohibition in paragraph A during this Grant term.
 - 4. The State's right to terminate unilaterally that is described in paragraph A of this section:
 - a. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and
 - b. Is in addition to all other remedies for noncompliance that are available to the FAA and State under this Grant.

18. Employee Protection from Reprisal.

A. Prohibition of Reprisals –

1. In accordance with 41 U.S.C. § 4712, an employee of the Sponsor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (A)(2), information that the employee reasonably believes is evidence of:
 - a. Gross mismanagement of a Federal grant;
 - b. Gross waste of Federal funds;
 - c. An abuse of authority relating to implementation or use of Federal funds;
 - d. A substantial and specific danger to public health or safety; or
 - e. A violation of law, rule, or regulation related to a Federal grant.
2. Persons and bodies covered: The persons and bodies to which a disclosure by an employee is covered are as follows:
 - a. A member of Congress or a representative of a committee of Congress;
 - b. An Inspector General;
 - c. The Government Accountability Office;
 - d. A Federal office or employee responsible for oversight of a grant program;
 - e. A court or grand jury;
 - f. A management office of the Sponsor; or
 - g. A Federal or State regulatory enforcement agency.
3. Submission of Complaint – A person who believes that they have been subjected to a reprisal prohibited by paragraph A of this grant term may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
4. Time Limitation for Submittal of a Complaint - A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
5. Required Actions of the Inspector General – Actions, limitations, and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b).
6. Assumption of Rights to Civil Remedy - Upon receipt of an explanation of a decision not to conduct or continue an investigation by the Office of Inspector General, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c).

19. Limitations. Nothing provided herein shall be construed to limit, cancel, annul, or modify the terms of any Federal grant agreement(s), including all terms and assurances related thereto, that have been entered into by the Sponsor and the State prior to the date of this Grant.

20. Air and Water Quality. The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the State and Sponsor fail to comply with this requirement, the State may suspend, cancel, or terminate this Agreement.

21. Face Coverings Policy. The Sponsor agrees to implement a face-covering (mask) policy to combat the spread of pathogens. This policy must include a requirement that all persons wear a mask, in accordance with Centers for Disease Control (CDC) guidelines and Transportation Security Administration (TSA) requirements, as applicable, at all times while in all public areas of the Airport property, except to the extent exempted under those requirements. This special condition requires the airport Sponsor continue to require masks until Executive Order 13998, Promoting COVID-19 Safety in Domestic and International Travel, is no longer effective.

SPECIAL CONDITIONS FOR USE OF AIRPORT RESCUE FUNDS

CONDITIONS FOR ROLLING STOCK/EQUIPMENT -

1. **Equipment or Vehicle Replacement.** The Sponsor agrees to treat the proceeds from the trade-in or sale of equipment being replaced with these funds as airport revenue.
2. **Equipment Acquisition.** The Sponsor agrees that for any equipment acquired with funds provided by this grant, such equipment shall be used solely for purposes directly related to the Airport.
3. **Low Emission Systems.** The Sponsor agrees that vehicles and equipment acquired using funds provided under this Grant:
 - a. Will be maintained and used at the Airport for which they were purchased; and
 - b. Will not be transferred, relocated, or used at another airport without the advance consent of the State.

The Sponsor further agrees to maintain annual records on individual vehicles and equipment, project expenditures, cost effectiveness, and emission reductions.

CONDITIONS FOR UTILITIES AND LAND -

1. **Utilities Proration.** For purposes of computing the Sponsor's share of the allowable airport operations and maintenance costs, the allowable cost of utilities incurred by the Sponsor, as applicable, to operate and maintain airport(s) included in this Grant must not exceed the percent attributable to the capital or operating costs of the airport.
2. **Utility Relocation in Grant.** The Sponsor understands and agrees, that:
 - a. The State will not participate in the cost of any utility relocation unless and until the Sponsor, has submitted evidence satisfactory to the State, that the Sponsor is legally responsible for payment of such costs;
 - b. State participation is limited to those utilities located on-airport or off-airport only where the Sponsor has an easement for the utility; and
 - c. The utilities must serve a purpose directly related to the Airport for which the Grant is made.
3. **Land Acquisition.** Where funds provided for by this Grant used for the purpose of acquiring land, the State agrees and will require the Sponsor agree to record the Grant, including the grant assurances and any and all related requirements, encumbrances, and restrictions that shall apply to such land, in the public land records of the jurisdiction in which the land is located.

PART II - ACCEPTANCE

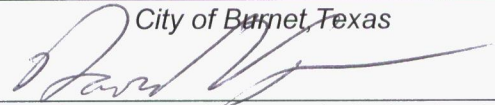
The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Grant Application and incorporated materials referred to in the foregoing Offer under Part II of this Agreement, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Grant Application. The Sponsor understands funding made available under this Grant may only be used to reimburse for airport operational and maintenance expenses, and debt service payments. The Sponsor further understands it may submit a separate request to use funds for new airport/project development purposes, subject to additional terms, conditions, and assurances. Further, the Grant constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 6-27-2023

City of Burnet, Texas

City of Burnet, Texas



(Signature of Sponsor's Authorized Official)

By:

David Vaughn

(Typed Name of Sponsor's Authorized Official)

Title:

City Manager

(Title of Sponsor's Authorized Official)

The Sponsor's acceptance of this Offer and ratification and adoption of the Grant Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the ARP Act, constituting the contractual obligations and rights of the State and the Sponsor with respect to the accomplishment of the grant application and compliance with the assurances and conditions as provided herein. Such Grant shall become effective upon the Sponsor's acceptance of this Offer.

**STATE OF TEXAS
TEXAS DEPARTMENT OF
TRANSPORTATION**

(Signature)

Daniel Harmon

(Typed Name)

Director, Aviation Division

(Title)

**AIRPORT RESCUE GRANT
ASSURANCES
AIRPORT SPONSORS**

A. General.

1. These Airport State Block Grant Assurances are required to be submitted as part of the application by sponsors requesting funds under the provisions of the American Rescue Plan Act of 2021 ("ARP Act or "the Act"), Public Law Number, Public Law 117-2. 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.
2. Upon acceptance of the sponsor, these assurances are incorporated into and become part of this Grant Agreement.

B. Sponsor Certification.

The Sponsor hereby assures and certifies, with respect to this ARP Act Grant that:

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 ARP Act Grant including but not limited to the following:

FEDERAL LEGISLATION

- a. 49 U.S.C. Chapter 471, as applicable
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.
- 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.
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.
- 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.
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.

- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1.
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

EXECUTIVE ORDERS

- a. Executive Order 11246 - Equal Employment Opportunity
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 - Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction
- f. Executive Order 12898 - Environmental Justice
- g. Executive Order 14005 - Ensuring the Future Is Made in All of America by All of America's Workers.

FEDERAL REGULATIONS

- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.^{3,4}
- c. 2 CFR Part 1200 - Nonprocurement Suspension and Debarment.
- d. 28 CFR Part 35 - Discrimination on the Basis of Disability in State and Local Government Services.
- e. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- f. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- g. 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
- h. 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

- i. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally assisted contracting requirements).¹
- j. 49 CFR Part 20 - New restrictions on lobbying.
- k. 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.
- l. 49 CFR Part 23 - Participation by Disadvantaged Business Enterprise in Airport Concessions.
- m. 49 CFR Part 26 - Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- n. 49 CFR Part 27 - Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.¹
- o. 49 CFR Part 28 - Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- 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 32 - Government-wide Requirements for Drug-Free Workplace (Financial Assistance).
- r. 49 CFR Part 37 - Transportation Services for Individuals with Disabilities (ADA).
- s. 49 CFR Part 41 - Seismic Safety.

FOOTNOTES TO ASSURANCE AIRPORT RESCUE GRANT SPONSOR ASSURANCE B.1.

- ¹ These laws do not apply to airport planning sponsors.
- ² These laws do not apply to private sponsors.
- ³ Cost principles established in 2 CFR Part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁴ Audit requirements established in 2 CFR Part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

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

- 1. **Purpose Directly Related to the Airport.** It certifies that the reimbursement sought is for a purpose directly related to the Airport.
- 2. **Responsibility and Authority of the Sponsor.**
 - a. Public Agency Sponsor:

It has legal authority to apply for this Grant, and to finance and carry out the proposed grant; that an official decision has been made by the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official

representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. **Private Sponsor:**

It has legal authority to apply for this Grant and to finance and carry out the proposed Grant 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. **Good Title.** 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.

4. **Preserving Rights and Powers.**

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

b. 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 this Grant Agreement.

c. 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 and conditions of this Grant Agreement.

5. **Consistency with Local Plans.** Any project undertaken by this Grant Agreement is reasonably consistent with plans (existing at the time of submission of the application or State subaward as applicable) 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.

6. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where any project undertaken by this Grant Agreement may be located.

7. **Consultation with Users.** In making a decision to undertake any airport development project undertaken by this Grant Agreement, it has undertaken reasonable consultations with affected parties using the Airport at which project(s) is/are proposed.

8. **Pavement Preventative Maintenance.** With respect to a project undertaken by this Grant Agreement 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, including ARP Act funds provided under this Grant Agreement. It will provide such reports

on pavement condition and pavement management programs as the Secretary determines may be useful.

9. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all Grant accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the Grant in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the Grant supplied by other sources, and such other financial records pertinent to the Grant. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a Grant or relating to the Grant in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

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

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

12. 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.
- 13. 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.
- 14. 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.
- 15. Exclusive Rights.** The sponsor shall not grant an exclusive right to use an air navigation facility on which this Grant has been expended. However, providing services at an airport by only one fixed-based operator is not an exclusive right if—
 - a. it is unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide the services; and
 - b. allowing more than one fixed-based operator to provide the services requires a reduction in space leased under an agreement existing on September 3, 1982, between the operator and the Airport.
- 16. Airport Revenues.**
 - a. This Grant shall be available for any purpose for which airport revenues may lawfully be used to prevent, prepare for, and respond to coronavirus. Funds provided under this ARP Act Grant Agreement will only be expended 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(s) subject to this Agreement and all applicable addendums for costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the Airport, and debt service payments as prescribed in the Act.
 - b. For airport development, 49 U.S.C. § 47133 applies.
- 17. 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. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 1. all amounts paid by the Airport to any other unit of government and the purposes for which each such payment was made; and
 2. all services and property provided by the Airport to other units of government and the amount of compensation received for provision of each such service and property.

18. 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.

19. Airport Layout Plan.

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the Airport showing:
 - 1) boundaries of the Airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 - 3) the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
 - 4) all proposed and existing access points used to taxi aircraft across the Airport's property boundary. Such Airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the Airport layout plan. The sponsor will not make or permit any changes or alterations in the Airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the Airport.
- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the Airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the Airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety,

utility, efficiency, and cost of operation existing before the unapproved change in the Airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

- 20. Civil Rights.** It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this Grant.
- a. Using the definitions of activity, facility, and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR Part 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
 - b. Applicability
 1. Programs and Activities. If the sponsor has received a grant (or other Federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 2. Facilities. Where it receives a grant or other Federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of, real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.
 - c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the 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:

 1. So long as the Airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
 2. So long as the sponsor retains ownership or possession of the property.
 - d. Required Solicitation Language.

It will include the following notification in all solicitations for bids, Requests for Proposals for work, or material under this Grant and in all proposals for agreements, including airport concessions, regardless of funding source:

"The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."
 - e. Required Contract Provisions.

1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT Acts and regulations.
2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - A. For the subsequent transfer of real property acquired or improved under the applicable activity, grant, or program; and
 - B. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, grant, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

21. Foreign Market Restrictions. It will not allow funds provided under this Grant to be used to fund any activity that 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.

22. Policies, Standards and Specifications. It will carry out any project funded under an ARP Act 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 July 16, 2021, and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

23. 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.

24. Disadvantaged Business Enterprises. The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business

Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this Agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 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 1936 (31 U.S.C. 3801).

- 25. Acquisition Thresholds.** The FAA deems equipment to mean tangible personal property having a useful life greater than one year and a per-unit acquisition cost equal to or greater than \$5,000. Procurements by micro-purchase means the acquisition of goods or services for which the aggregate dollar amount does not exceed \$10,000, unless authorized in accordance with 2 CFR § 200.320. Procurement by small purchase procedures means those relatively simple and informal procurement methods for securing goods or services that do not exceed the \$250,000 threshold for simplified acquisitions.

View the most current Series 150 Advisory Circulars (ACs) for Airport Projects at

http://www.faa.gov/airports/resources/advisory_circulars and

http://www.faa.gov/regulations_policies/advisory_circulars