

101267

AN ORDINANCE

AUTHORIZING THE ACCEPTANCE OF AN AIRPORT IMPROVEMENT GRANT IN THE AMOUNT OF \$7,646,366.00 FROM THE FEDERAL AVIATION ADMINISTRATION IN SUPPORT OF THE RESIDENTIAL ACOUSTICAL TREATMENT AND AIRSIDE APRON & UTILITIES PROGRAMS AT THE SAN ANTONIO INTERNATIONAL AIRPORT.

* * * * *

WHEREAS, the City has applied for a grant in the amount of \$7,646,366.00 with the Federal Aviation Administration under the Airport Improvement Program (AIP) in support of the Residential Acoustical Treatment and Airside Apron & Utilities Programs at San Antonio International Airport, which funds are included as part of the Aviation Department's Capital Budget; and

WHEREAS, the FAA has offered a grant for these projects in the amount of \$7,646,366.00; and

WHEREAS, in order to fund this grant, the Federal Aviation Administration must have the accepted, fully executed grant in their possession no later than August 29, 2005; and

WHEREAS, in order to properly fund these projects, it is now necessary to accept the grant; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager or his designee is hereby authorized to execute the grant agreement in the amount of \$7,646,366.00, in support of the Residential Acoustical Treatment and Airside Apron & Utilities Programs at San Antonio International Airport. A copy of said grant agreement is attached hereto and incorporated herein by reference for all purposes as Attachment 1.

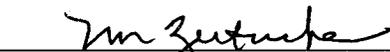
SECTION 2. The budget for these projects, including the City's proportionate share will be established, appropriations authorized, and contracts awarded by subsequent ordinances.

SECTION 3. Upon the affirmative vote of at least eight members of the City Council, this Ordinance will become effective immediately; otherwise, it will become effective ten days from the date of passage.

PASSED AND APPROVED this 25th day of August, 2005.


M A Y O R
PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for Acting City Attorney

Agenda Voting Results

Name: 8.

Date: 08/25/05

Time: 09:45:20 AM

Vote Type: Multiple selection

Description: An Ordinance authorizing the acceptance of an airport improvement grant in the amount of \$7,646,366.00 from the Federal Aviation Administration in support of the Residential Acoustical Treatment and Airside Apron & Utilities Programs at the San Antonio International Airport. [Presented by Roland A. Lozano, Interim Director, Aviation; J. Rolando Bono, City Manager

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR		x		

Original



GRANT AGREEMENT

U.S. Department
of Transportation
Federal Aviation
Administration

PART I - OFFER

AUG 09 2005

Date of Offer

San Antonio International

Airport/Planning Area

3-48-0192-050-2005

AIP Grant No.

TO: The City of San Antonio, Texas
(herein called the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration,
herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Grant Application dated August 4, 2005, for a grant of Federal funds for a project(s) at or associated with the San Antonio International Airport which Grant Application, as approved by the FAA, is hereby incorporated herein and made a part hereof; and

WHEREAS, the FAA has approved a project(s) for the Airport (or Planning Area) (herein called the "Project") consisting of the following:

Noise Mitigation Measures for Residences within 65-69 DNL; Rehabilitate Apron

all as more particularly described in the Grant Application.

Attachment 1

NOW THEREFORE, pursuant to and for the purpose of carrying out the provisions of Title 49, United States Code, as amended, herein called "the Act", and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Grant Application and its acceptance of this Offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Grant and compliance with the assurances and conditions as herein provided, **THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES** to pay, as the United States share of the allowable costs incurred in accomplishing the Grant, seventy-seven (77) per centum thereof.

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

1. The maximum obligation of the United States payable under this Offer shall be \$7,646,366. For the purposes of any future grant amendments which may increase the foregoing maximum obligation of the United States under the provisions of Section 47108(b) of the Act, the following amounts are being specified for this purpose:

\$3,646,366.00 for airport development and

\$4,000,000 for noise program implementation.

2. The allowable costs of the project(s) shall not include any costs determined by the FAA to be ineligible for consideration as to allowability under the Act.

3. Payment of the United States' share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.

4. The Sponsor shall carry out and complete the Project(s) without undue delays and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe, and agrees to comply with the assurances which were made part of the Grant application.

5. The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.

6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the Grant unless this offer has been accepted by the Sponsor on or before August 29, 2005, or such subsequent date as may be prescribed in writing by the FAA.

7. The Sponsor shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. It shall obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. It shall return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. It shall furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the Secretary.

8. The United States shall not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.
9. **MAXIMUM OBLIGATION INCREASE FOR PRIMARY AIRPORTS:** In accordance with Section 47108(b) of the Act, as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:
- a. May not be increased for a planning project;
 - b. May be increased by not more than 15 percent for development projects;
 - c. May be increased by not more than 15 percent for land projects.
10. **INFORMAL LETTER AMENDMENT OF AIP GRANTS:** It is mutually understood and agreed that if, during the life of the Grant, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000.00 or five percent (5%), whichever is greater, the maximum obligation of the United States can be unilaterally reduced by letter from the FAA advising of the budget change. Conversely, if there is an overrun in the total actual eligible and allowable project costs, FAA may increase the maximum grant obligation of the United States to cover the amount of the overrun not to exceed the statutory percent limitation and will advise the Sponsor by letter of the increase. It is further understood and agreed that if, during the life of the Grant, the FAA determines that a change in the grant description is advantageous and in the best interests of the United States, the change in grant description will be unilaterally amended by letter from the FAA. Upon issuance of the aforementioned letter, either the grant obligation of the United States is adjusted to the amount specified or the grant description is amended to the description specified.
11. **BUY AMERICAN REQUIREMENT:** Unless otherwise approved by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for airport development or noise compatibility for which funds are provided under this grant. The Sponsor will include in every contract a provision implementing this special condition.
12. **AIR AND WATER QUALITY:** Approval of the project(s) included in this agreement is conditioned on the Sponsor's compliance with applicable air and water quality standards in accomplishing project construction. Failure to comply with this requirement may result in suspension, cancellation, or termination of Federal assistance under this agreement.
13. **FOR SPONSORS USING LETTER OF CREDIT:** The Sponsor agrees to request cash drawdowns on the letter of credit only when actually needed for its disbursements and to timely reporting of such disbursements as required. It is understood that failure to adhere to this provision may cause the letter of credit to be revoked.
14. **GRANTS ISSUED ON ESTIMATES:** It is understood and agreed by and between the parties hereto that this Grant Offer is made and accepted based on estimates for the drainage improvements, and the parties hereby covenant and agree that within 60 days from the date of acceptance of this Grant Offer, the Sponsor shall receive bids for all projects contained within the grant description.
15. **PAVEMENT MAINTENANCE MANAGEMENT PROGRAM:** For a project to replace or reconstruct pavement at the airport, the Sponsor shall implement an effective airport pavement maintenance management program as is required by the Airport Sponsor Assurance Number C-11. The Sponsor shall use such program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport. As a minimum, the program must conform with the provisions outlined below:

Pavement Maintenance Management Program

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

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

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

b. **Inspection Schedule.**

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

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

- (1) Inspection date,
- (2) Location,
- (3) Distress types, and
- (4) Maintenance scheduled or performed.

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

- d. **Information Retrieval.** An airport sponsor may use any form of record keeping it deems appropriate, as long as the information and records produced by the pavement survey can be retrieved to provide a report to the FAA as may be required.
- e. **Reference.** Refer to Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," for specific guidelines and procedures for maintaining airport pavements and establishing an effective maintenance program. Specific types of distress, their probable causes, inspection guidelines, and recommended methods of repair are presented.

16. GRANTS WHICH CONTAIN PAVING WORK IN EXCESS OF \$250,000: The Sponsor

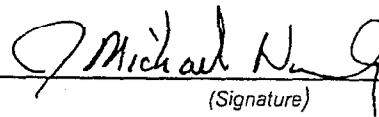
agrees to perform the following:

- a. Furnish a construction management program to the FAA prior to the start of construction which shall detail the measures and procedures to be used to comply with the quality control provisions of the construction contract, including, but not limited to, all quality control provisions and tests required by the Federal specifications. The program shall include as a minimum:
 - (1) The name of the person representing the Sponsor who has overall responsibility for contract administration for the Grant and the authority to take necessary actions to comply with the contract.
 - (2) Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided.
 - (3) Procedures for determining that testing laboratories meet the requirements of the American Society of Testing and Materials standards on laboratory evaluation, referenced in the contract specifications (D 3666, C 1077).
 - (4) Qualifications of engineering supervision and construction inspection personnel.
 - (5) A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test.
 - (6) Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, and that the proper corrective actions, where necessary, are undertaken.
- b. Submit at completion of the project, a final test and quality control report documenting the results of all tests performed, highlighting those tests that failed or did not meet the applicable test standard. The report shall include the pay reductions applied and the reasons for accepting any out-of-tolerance material. An interim test and quality control report shall be submitted, if requested by the FAA.
- c. Failure to provide a complete report as described in paragraph b, or failure to perform such tests, shall, absent any compelling justification, result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction shall be at the discretion of the FAA and will be based on the type or types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under the grant agreement.
- d. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that sponsor test results are inaccurate.

17. FOR GRANTS WITH LAND ACQUISITION: It is understood and agreed by and between the parties hereto that notwithstanding the fact that this Grant Offer is made and accepted upon the basis of the current Exhibit "A" Property Map, the Sponsor hereby covenants and agrees that upon completion of the land acquisition in this project, it will update said Exhibit "A" Property Map to standards satisfactory to the Federal Aviation Administration (FAA) and submit said documentation in final form to the FAA. It is further mutually agreed that the reasonable cost of developing said Exhibit "A" Property Map is an eligible administrative cost for participation within the scope of this project.

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 Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Grant and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION


(Signature)

J. Michael Nicely

(Typed Name)

Manager, Texas Airports Development Office

(Title)

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 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.

Executed this _____ day of _____, 20____.

(Name of Sponsor)

(SEAL)

(Signature of Sponsor's Designated Official Representative)

By:

(Typed Name of Sponsor's Designated Official Representative)

Title:

(Typed Title of Sponsor's Designated Official Representative)

Attest:

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, 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 _____. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the 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 _____ this _____ day of _____, 20____.

By

(Signature of Sponsor's Attorney)