

RESOLUTION NO. 49-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO FINALIZE AND EXECUTE A GRANT AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION, AVIATION DIVISION, TO OBTAIN A REIMBURSEMENT OF \$389,463.00 FOR THE CITY'S ACQUISITION IN THE YEAR 2015 OF APPROXIMATELY 26.8 ACRES OF LAND LOCATED AT 4311 SCYENE ROAD IN MESQUITE, DALLAS COUNTY, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Mesquite, Texas (the "City"), purchased approximately 26.8 acres of land located at 4311 Scyene Road in Mesquite, Dallas County, Texas, for a total cost of \$432,736.00, to secure the Runway Protection Zone for Runway 18 at the Mesquite Metro Airport, authorized by City Council action on March 2, 2015, resulting from executive session on agenda item 17; and

WHEREAS, by following the process set forth by the Aviation Division of the Texas Department of Transportation ("TxDOT"), this land purchase is now eligible for a reimbursement of up to 90 percent of the acquisition cost (\$389,463.00); and

WHEREAS, TxDOT has requested a resolution from the City whereby the City acknowledges the project will be placed on the August 2019 TxDOT Commission agenda for approval; and

WHEREAS, if approved by the TxDOT Commission, the City and TxDOT shall enter into an Airport Project Participation Agreement ("grant agreement") substantially in accordance with the draft attached hereto as Exhibit "A."

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. The City Council finds it necessary and appropriate to seek the reimbursement of up to 90 percent of the acquisition cost, approximately \$389,463.00, for the approximately 26.8 acres of land purchased to secure the Runway Protection Zone for Runway 18 at the Mesquite Metro Airport.

SECTION 2. The City of Mesquite, Texas, names the Texas Department of Transportation ("TxDOT") as its agent for the purposes of applying for, receiving and disbursing all funds for this land acquisition reimbursement and for the administration of contracts necessary for the implementation of the land acquisition reimbursement.

SECTION 3. The City Manager or his designee is hereby authorized to finalize and execute on behalf of the City of Mesquite, Texas, the grant agreement, substantially in

accordance with the draft attached hereto as Exhibit "A," with the State of Texas, represented by the Texas Department of Transportation, Aviation Division, which shall be in a final form acceptable to the City Attorney or his designee presented to the City for execution after TxDOT Commission approval.


SECTION 4. The City Manager or his designee is hereby authorized to do any and all things, execute any and all documents, and take any action necessary to complete the intent of this resolution.

SECTION 5. Should any word, sentence, clause, paragraph or provision of this resolution be held to be invalid or unconstitutional, the validity of the remaining provisions of this resolution shall not be affected and shall remain in full force and effect.

SECTION 6. All resolutions or portions thereof in conflict with the provisions of this resolution, to the extent of such conflict are hereby repealed. To the extent that such resolutions or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

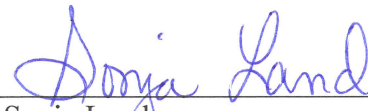
SECTION 7. This resolution shall become effective immediately upon its adoption.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 1st day of July 2019.



Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

TEXAS DEPARTMENT OF TRANSPORTATION
AIRPORT PROJECT PARTICIPATION AGREEMENT
(Federally Assisted Airport Development Grant)

TxDOT CSJ No.:2018MSQTE
NPE Funds Applied: FY18, FY19
Commission Approval: August 29, 2019
DUNS: 068986181
C.F.D.A.:20.106

Part I - Identification of the Project

TO: The City of Mesquite, Texas

FROM: The State of Texas, acting through the Texas Department of Transportation

This Agreement 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 the City of Mesquite, Texas, (hereinafter referred to as the "Sponsor").

The Sponsor desires to sponsor a project for the development of a public aviation facility, known or to be designated as the Airport under the Airport and Airway Improvement Act of 1982, as repealed and recodified in Title 49 United States Code, Section 47101 et seq., (hereinafter referred to as "Title 49 U.S.C."), and Rules, Regulations and Procedures promulgated pursuant; and under V.T.C.A. Transportation Code, Title 3, Chapters 21-22, et seq. (Vernon and Vernon Supp).

The project is described as follows: reimbursement of land acquisition for Runway 17 Runway Protection Zone at the Mesquite Metro Airport.

The Sponsor applies for a grant for financial assistance for the project described above.

The parties, by this Agreement, do fix their respective responsibilities, with reference to each other, with reference to the accomplishment of the project, and with reference to the United States.

Pursuant to and for the purpose of carrying out the provisions of Title 49 U.S.C., and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in the Airport Project Participation Agreement and its acceptance of this Offer as provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the project and compliance with the assurances and conditions as herein provided, **THE TEXAS DEPARTMENT OF TRANSPORTATION, FOR AND ON BEHALF OF THE UNITED STATES, FEDERAL AVIATION ADMINISTRATION (HEREINAFTER REFERRED TO AS THE "FAA")**, **HEREBY OFFERS AND AGREES** to pay, as the United States share of the allowable costs incurred in accomplishing the project, ninety percentum of all allowable project costs.

This grant is made on and subject to the following terms and conditions:

Part II - Offer of Financial Assistance

1. The allowable costs of the project shall not include any costs determined by the State to be ineligible for consideration as to allowability under Title 49 U.S.C., the V.T.C.A. Transportation Code, Title 3, Chapters 21-22. et seq., (Vernon and Vernon Supp), and the Airport Zoning Act, Tex. Loc. Govt. Code Ann. §§ 241.001 et seq. (Vernon and Vernon Supp).
2. It is estimated that total project costs will be approximately \$432,736 (Amount A). It is further estimated that approximately \$432,736 (Amount B) of the project costs will be eligible for federal financial assistance, and that federal financial assistance will be for ninety percent (90%) of the eligible project costs. Final determination of federal eligibility of total project costs will be determined by the State in accordance with federal guidelines following completion of project.

In the event that federal funds are unavailable, this Agreement shall automatically be voided and become of no force and effect, except that unexpended or unencumbered moneys actually deposited by the Sponsor and held with the State for project purposes shall be returned to the Sponsor.

3. The maximum obligation of the United States payable under this offer shall be \$389,463 (Amount C):

This grant should not be construed as block grant funds for the Sponsor, but as a grant for funding of the scope items as listed on page one of this agreement. It is the intent of the State to provide funding to complete the approved work items of this grant and not to amend the scope of work to include items outside of the current determined needs of this project. Scope of work may be amended as necessary to fulfill the unforeseen needs of this specific development project within the spirit of the approved scope, subject to the availability of state, federal, and/or local funds.

4. It is estimated that the Sponsor's share of the total project costs will be \$43,273 (Amount D). The Sponsor specifically agrees that it shall pay any project costs, which exceed the sum of the federal share (Amount C).

It is further agreed that the Sponsor will reimburse the State for any payment or payments made by the State in behalf of the Sponsor which are in excess of the federal percentage of financial participation as stated in Paragraph II-2. The State shall refund to the Sponsor, at the financial closure of the project, any excess funds provided by the Sponsor.

5. 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 State and FAA, 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.

6. Sponsor, by executing this Agreement certifies, and upon request, shall furnish proof to the State that it has sufficient funds to meet its share of the costs as stated. The Sponsor grants to the State and federal government the right, upon advance written request during reasonable and regular business hours, to audit any books and records of the Sponsor to verify said funds. In addition, the Sponsor shall disclose the source of all funds for the project and its ability to finance and operate the project.

Expenditures for eligible project costs for the above project made by the State or the Sponsor prior to the award of a federal grant for said project, and prior to actual receipt of the authority to expend federal grant funds, shall be made from Sponsor funds.

Monthly grant payments to the Sponsor will be made upon request to the State. Payments of the State's share of the allowable project costs will be made in proportion to the amount expended by the Sponsor for the eligible project costs. No more than ninety (90) percent of the total grant will be paid prior to the completion of the project. The last ten (10) percent of the grant will be paid only after the staff has inspected and approved the completed project.

PART III - Sponsor Responsibilities

- I. In accepting the Agreement, the Sponsor guarantees that:
 - a. it will comply with the Attachment A, Certification of Airport Fund, attached and made a part of this Agreement; and
 - b. it will comply with the Attachment B, Certification of Single Audit Requirements, attached and made a part of this Agreement; and
 - c. it will comply with the Attachment F, Airport Assurances (3/2014)(State Modified 3/2014), attached and made a part of this Agreement; and
 - d. it will comply with the Attachment E, Certification and Disclosure Regarding Potential Conflicts of Interests attached and made a part of this Agreement; and
 - e. it will, in the operation of the facility, comply with all applicable state and federal laws, rules, regulations, procedures, covenants and assurances required by the State of Texas or the FAA in connection with the federal grant; and
 - f. the Airport or navigational facility which is the subject of this Agreement shall be controlled for a period of at least 20 years, and improvements made or acquired under this project shall be operated, repaired and maintained in a safe and serviceable manner for the useful life of the improvements, not to exceed 20 years; and

- g. consistent with safety and security requirements, it shall make the airport or air navigational facility available to all types, kinds and classes of aeronautical use without unjust discrimination between such types, kinds and classes and shall provide adequate public access during the term of this Agreement; and
- h. it shall not grant or permit anyone to exercise an exclusive right for the conduct of aeronautical activity on or about an airport landing area. Aeronautical activities include, but are not limited to scheduled airline flights, charter flights, flight instruction, aircraft sales, rental and repair, sale of aviation petroleum products and aerial applications. The landing area consists of runways or landing strips, taxiways, parking aprons, roads, airport lighting and navigational aids; and
- i. it shall not permit non-aeronautical use of airport facilities, unless noted on an approved Airport Layout Plan, without prior approval of the State/FAA; and
- j. it will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport; and
- k. it will acquire all property interests identified as needed for the purposes of this project and comply with all applicable state and federal laws, rules, regulations, procedures, covenants and assurances required by the State of Texas or the FAA in connection with the federal grant in the acquisition of such property interests; and that airport property identified within the scope of this project and Attorney's Certificate of Airport Property Interests shall be pledged to airport use and shall not be removed from such use without prior written approval of the State; and
- l. the Sponsor shall submit to the State annual statements of airport revenues and expenses as requested; and
- m. all fees collected for the use of an airport or navigational facility constructed with funds provided under the program shall be reasonable and nondiscriminatory. The proceeds of such fees shall be used solely for the development, operation and maintenance of the Sponsor's system of airport(s) or navigational facility(ites).
- n. an Airport Fund shall be established by resolution, order or ordinance in the treasury of the Sponsor, or evidence of the prior creation of an existing airport fund or a properly executed copy of the resolution, order, or ordinance creating such a fund shall be submitted to the State. Such fund may be an account within another fund, but must be accounted for in such a manner that all revenues, expenses, retained earnings, and balances in the account are discernible from other types of moneys identified in the fund as a whole. All fees, charges, rents, and money from any source derived from airport operations must be deposited in said Airport Fund and shall not be diverted to the general revenue fund or any other revenue fund of the Sponsor. All expenditures from the Airport Fund shall be solely for airport or airport system purposes. Sponsor shall be ineligible for a subsequent grant or loan by the State unless, prior to such subsequent approval of a grant or loan, Sponsor has complied with the requirements

of this subparagraph; and

- o.** for federally funded projects any revenue from airport property mineral rights be identified as airport revenue; deposited to the airport fund and used for airport operations; and
 - p.** the Sponsor shall operate runway lighting at least at low intensity from sunset to sunrise; and
 - q.** insofar as it is reasonable and within its power. Sponsor shall adopt and enforce zoning regulations to restrict the height of structures and use of land adjacent to or in the immediate vicinity of the airport to heights and activities compatible with normal airport operations as provided in Tex. Loc. Govt. Code Ann. §§ 241.001 et seq. (Vernon and Vernon Supp.). Sponsor shall also acquire and retain aviation easements or other property interests in or rights to use of land or airspace, unless Sponsor can show that acquisition and retention of such interests will be impractical or will result in undue hardship to Sponsor. Sponsor shall be ineligible for a subsequent grant or loan by the State unless Sponsor has, prior to such subsequent approval of a grant or loan, adopted and passed an airport hazard zoning ordinance or order approved by the State; and
 - r.** all development of an airport constructed with program funds shall be consistent with the Airport Layout Plan approved by the State and maintained by the Sponsor. A reproducible copy of such plan, and all subsequent modifications, shall be filed with the State for approval; and
 - s.** it shall take all steps, including litigation if necessary, to recover funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal and State funds have been expended. For the purposes of this grant agreement, the term "funds" means funds, however used or disbursed by the Sponsor or Agent that were originally paid pursuant to this or any other grant agreement. It shall obtain the approval of the State as to any determination of the amount of such funds. It shall return the recovered share, including funds recovered by settlement, order or judgment, to the State. It shall furnish to the State, upon request, all documents and records pertaining to the determination of the amount of the funds 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 funds shall be approved in advance by the State.
- 2.** The Sponsor certifies to the State that it will have acquired clear title in fee simple to all property upon which construction work is to be performed, or have acquired a leasehold on such property for a term of not less than 20 years, prior to the advertisement for bids for such construction or procurement of facilities that are part of the above project, and within the time frame of the project, a sufficient interest (easement or otherwise) in any other property which

may be affected by the project.

3. The Sponsor, to the extent of its legal authority to do so, shall save harmless the State, the State's agents, employees or contractors from all claims and liability due to activities of the Sponsor, the Sponsor's agents or employees performed under this agreement. The Sponsor, to the extent of its legal authority to do so, shall also save harmless the State, the State's agents, employees or contractors from any and all expenses, including attorney fees which might be incurred by the State in litigation or otherwise resisting said claim or liabilities which might be imposed on the State as the result of such activities by the Sponsor, the Sponsor's agents or employees.
4. The Sponsor's acceptance of this Offer and ratification and adoption of the Agreement incorporated shall be evidenced by execution of this instrument by the Sponsor, as provided, and said Agreement shall comprise a contract, constituting the obligations and rights of the State of Texas and the Sponsor with respect to the accomplishment of the project and the operation and maintenance of the airport. Such Agreement shall become effective upon execution of this instrument and shall remain in full force and effect for a period of at least 20 years.
5. The Sponsor and not the State shall, for all purposes, be the "Sponsor" of the project identified above as defined in Title 49 U.S.C. Sponsor agrees to assume responsibility for operation of the facility in compliance with all applicable state and federal requirements including any statutes, rules, regulations, assurances, procedures or any other directives before, during and after the completion of this project.
6. For a project to replace or reconstruct pavement at the airport, the Sponsor shall implement an effective airport pavement maintenance management program as is required by Airport Sponsor Assurance Number 11. The sponsor shall use such program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport. As a minimum, the program must conform to the provisions in Attachment D "Pavement Maintenance Management Program", attached and made a part of this agreement.
7. The Sponsor agrees to assume the responsibility to assure that all aspects of the grant and project are done in compliance with all applicable state and federal requirements including any statutes, rules, regulations, assurances, procedures or any other directives, except as otherwise specifically provided herein.
8. Unless otherwise approved by the State, 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.
9. **SPECIAL CONDITION:** Except for instrument landing systems acquired with AIP funds and later donated to and accepted by the FAA, the Sponsor must provide for the continuous operation and maintenance of any navigational aid funded under the AIP during the useful life of the equipment. The sponsor must check the facility, including instrument landing systems.

prior to commissioning to ensure it meets the operational standards. The Sponsor must also remove, relocate, or lower each obstruction on the approach or provide for the adequate lighting or marking of the obstruction if any aeronautical study conducted under FAR Part 77 determines that to be acceptable; and mark and light the runway, as appropriate. The Federal Aviation Administration will not take over the ownership, operation, or maintenance of any sponsor-acquired equipment, except for instrument landing systems.

10. The Sponsor shall have on file with the State:
 - a. A current and approved Attorney's Certificate of Airport Property Interests and Exhibit A property map; and
 - b. Attachment C, Certification Regarding Drug-Free Workplace Requirements, attached and made a part of this agreement.
11. The Sponsor shall submit the following certifications, as appropriate, for compliance with statutory and administrative requirements of the federal grant:
 - a. Sponsor Certification for Real Property Acquisition.
12. The Sponsor shall administer Disadvantage Business Enterprises (DBE) Program in accordance with federal regulations. They shall report the amount of participation to the State for the period ending September 30 of each year the grant is open no later than October 15 of each year the grant is open. In addition, semi-annual reports must be submitted for the period October 1 – March 31 and April 1 – September 30. Submission shall be made using Department of Transportation (DOT) Form 4630 "Report of DBE Goal Accomplishments" and a Report of Certified DBE Contractors Used on FAA Assisted Contracts."

Additionally the Sponsor shall submit with each reimbursement or payment request form, the amount of DBE participation during the period of that request on TxDOT form "Subcontractor Monitoring System" and when appropriate "DBE Prime Contractor Payments to Non-DBE Subcontractors."
13. The Sponsor shall submit to the State the following:
 - a. documentation of official designation of the consultant selection committee, evaluation criteria, scoring matrix and consultant ranking; and
 - b. if property acquisition is funded under this grant, documentation of the professional service contracts (e.g. surveyor and appraisal), and negotiation and settlement agreements; and
14. The Sponsor may utilize paving specifications meeting State Highway criteria for runways at non-primary airports with lengths up to 5,000 feet and serving aircraft not exceeding 60,000 pounds gross take-off weight. The sponsor agrees not to request additional AIP funds for reconstruction or rehabilitation of pavement constructed utilizing State specification for 10

years from pavement acceptance unless the Secretary determines that the reconstruction or rehabilitation is required for safety reasons.

15. The Sponsor agrees that no payments will be made on the grant until the Sponsor has presented evidence to the State that it has recorded the grant agreement, including the grant assurances, in the public land records of the county courthouse. The Sponsor understands and agrees that recording the grant agreement legally enforces these requirements, encumbrances and restrictions on the obligated land.

Part IV- Responsibilities of the State

1. The Sponsor designates the State as the party to apply for, receive and disburse all funds used, or to be used, in payment of the costs of said project, or in reimbursement to either of the parties for costs incurred.
2. The State shall, for all purposes in connection with the project identified above, be the Agent of the Sponsor. The Sponsor grants the State a power of attorney to act as its agent to perform the following services:

Receiving Disbursing Agent:

- a. apply for, accept, receive, and deposit with the State Treasury any and all project funds granted, allowed, and paid or made available by the State and/or the United States under Title 49 U.S.C. and congressional appropriation made pursuant, and the Sponsor;
 - b. receive, review, approve and process Sponsor's reimbursement requests for approved project costs. Monthly grant payments to the Sponsor will be made upon request to the State. Payments of the State's share of the allowable project costs will be made in proportion to the amount expended by the Sponsor for the eligible project costs. No more than ninety (90) percent of the total grant will be paid prior to the completion of the project. The last ten (10) percent of the grant will be paid only after the staff has inspected and approved the completed project.
 - c. pay to the Sponsor, from granted funds, the portion of any approved reasonable and eligible project costs incurred by the Sponsor that are in excess of the Sponsor's share.
3. Responsibility of the State shall include, if appropriate, but not be limited to:
 - a. concurrence with project scope; and
 - b. verification of consultant selection process; and
 - c. review and concurrence with property acquisition procedures; and

PART V - Recitals

1. The Sponsor shall obtain an audit as required by federal or state regulations; and procure and forward to the State and FAA such specific project documentation as is necessary to complete all aspects of this project.
2. The Sponsor, and not the State, shall be the contractual party to all construction and professional service contracts entered into for the accomplishment of this project. The power of attorney, as granted by the Sponsor to the State in Part IV - Nomination of Agent, is a limited power to perform acts in connection with airport improvements as specified in or necessitated by this Agreement.
3. The Sponsor agrees to pursue and enforce contract items, which are required by federal and/or state regulations, laws and orders to insure satisfactory performance of contract vendors. Such items include, but are not limited to, bid bonds, payment bonds, and performance bonds. Pursuit and enforcement of contract items may require litigation and other remedies of law.
4. The United States and the State of Texas 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.
5. This Agreement is executed for the sole benefit of the contracting parties and is not intended or executed for the direct or incidental benefit of any third party. Furthermore, the State shall not be a party to any other contract or commitment, which the Sponsor may enter into or assume, or have entered into or have assumed, in regard to the above project.
6. If the Sponsor fails to comply with the conditions of the grant, the State may, by written notice to the Sponsor, suspend the grant in whole or in part. The notice of suspension shall contain the following:
 - a. The reasons for the suspension and the corrective action necessary to lift the suspension;
 - b. A date by which the corrective action must be taken;
 - c. Notification that consideration will be given to terminating the grant after the corrective action date.

In the case of suspension or termination, the Sponsor may request the State to reconsider the suspension or termination. Such request for reconsideration shall be made within 45 days after receipt of the notice of suspension or termination.

7. This Agreement is subject to the applicable provisions of Title 49 U.S.C., the V.T.C.A. Transportation Code, Title 3, Chapters 21- 22, et seq., (Vernon and Vernon Supp.), and the Airport Zoning Act, Tex. Loc. Govt. Code Ann. §§ 241.001 et seq. (Vernon and Vernon Supp.). Failure to comply with the terms of this Agreement or with the aforementioned rules and statutes shall be considered a breach of this contract and will allow the State to pursue the

remedies for breach as stated below.

- a. Of primary importance to the State is compliance with the terms and conditions of this Agreement. If, however, after all reasonable attempts to require compliance have failed, the State finds that Sponsor is unwilling and/or unable to comply with any of the terms and conditions of this Agreement, the State may pursue any of the following remedies: (1) require a refund of any money expended pursuant to the Agreement herein, (2) deny Sponsor's future requests for aid, (3) request the Attorney General to bring suit seeking reimbursement of any money expended on the project pursuant to the Agreement herein, provided however, these remedies shall not limit the State's authority to enforce its rules, regulations or orders as otherwise provided by law, (4) declare this Agreement null and void, or (5) any other remedy available at law or in equity.
 - b. Venue for resolution by a court of competent jurisdiction of any dispute arising under the terms of this Agreement, or for enforcement of any of the provisions of this Agreement, is specifically set by Agreement of the parties in Travis County, Texas.
8. The State reserves the right to amend or withdraw this Agreement at any time prior to acceptance by the Sponsor. The acceptance period cannot be greater than 30 days after issuance unless extended by the State, which extension shall not be unreasonably denied or delayed.
 9. This Agreement constitutes the full and total understanding of the parties concerning their rights and responsibilities in regard to this project and shall not be modified, amended, rescinded or revoked unless such modification, amendment, rescission or revocation is agreed to by both parties in writing and executed by both parties.
 10. All commitments by the Sponsor and the State are subject to constitutional and statutory limitations and restrictions binding upon the Sponsor and the State (including §§ 5 and 7 of Article 11 of the Texas Constitution, if applicable) and to the availability of funds which lawfully may be applied.
 11. The Sponsor's acceptance of this Agreement and ratification and adoption of the Airport Project Participation Agreement incorporated shall be evidenced by execution of this instrument by the Sponsor, as provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Title 49 U.S.C., constituting the contractual obligations and rights of the United States, the State of Texas and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the State's written Notice to Proceed issued following execution of this agreement.
 12. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of

the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

13. Termination

This agreement may be terminated in the following manner:

- ◆ by mutual written agreement and consent of both parties;
- ◆ by either party upon the failure of the other party to fulfill the obligations set forth herein;
- ◆ by the State if it determines that the performance of the Project is not in the best interest of the State.

If the contract is terminated in accordance with the above provisions, the Sponsor will be responsible for the payment of Project costs incurred by the State on behalf of the Sponsor up to the time of termination.

- A. In the event the State determines that additional funding is required by the Sponsor at any time during the development of the Project, the State will notify the Sponsor in writing. The Sponsor will make payment to the State within thirty (30) days from receipt of the State's written notification.
- B. Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due to the Sponsor, the State, or the Federal Government will be promptly paid by the owing party.
- C. In the event the Project is not completed, the State may seek reimbursement from the Sponsor of the expended funds. The Sponsor will remit the required funds to the State within sixty (60) days from receipt of the State's notification.
- D. The State will not pay interest on any funds provided by the Sponsor.
- E. The State will not execute the contract for the construction of the Project until the required funding has been made available by the Sponsor in accordance with this Agreement.

Part VI - Acceptance of the Sponsor

The City of Mesquite, Texas, does ratify and adopt all statements, representations, warranties, covenants and agreements constituting the described project and incorporated materials referred to in the foregoing Agreement, and does accept the Offer, and by such acceptance agrees to all of the terms and conditions of the Agreement.

Executed this 9th day of September, 2019.

The City of Mesquite, Texas
Sponsor


Sponsor Signature

City Manager
Sponsor Title

Certificate of Sponsor's Attorney

I, David L. Parkhill, acting as attorney for City of Mesquite, Texas, do certify that I have fully examined the Agreement and the proceedings taken by the Sponsor relating, and find that the manner of acceptance and execution, of the Agreement by the Sponsor, is in accordance with the laws of the State of Texas.

Dated at Mesquite, Texas, this 5th day of September, 2019.


Attorney Signature

Part VII - Acceptance of the State

Executed by and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs and grants heretofore approved and authorized by the Texas Transportation Commission.

STATE OF TEXAS
TEXAS DEPARTMENT OF TRANSPORTATION

By: Kari Campbell

Kari Campbell, Director of Grants
Aviation Division
Texas Department of Transportation

Date: 9-13-19

ACKNOWLEDGMENT

THE STATE OF TEXAS

§
§
§

COUNTY OF TRAVIS

This instrument was acknowledged before me on the 26 day of September 2019 by Kari Campbell.

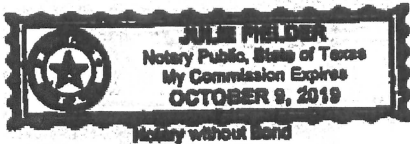
[Signature]

Notary Public, State of Texas

Julie Fielder

Notary's Name Printed

Notary's Commission Expires: 10/9/19



ATTACHMENT A

CERTIFICATION OF AIRPORT FUND

The Sponsor does certify that an Airport Fund has been established for the Sponsor, and that all fees, charges, rents, and money from any source derived from airport operations will be deposited for the benefit of the Airport Fund and will not be diverted for other general revenue fund expenditures or any other special fund of the Sponsor and that all expenditures from the Fund will be solely for airport purposes. Such fund may be an account as part of another fund, but must be accounted for in such a manner that all revenues, expenses, retained earnings, and balances in the account are discernible from other types of moneys identified in the fund as a whole.

The City of Mesquite, Texas
(Sponsor)

By: 

Title: City Manager

Date: 9-5-19

ATTACHMENT B

Certification of Single Audit Requirements

I, Cliff Kehelny, do certify that the City of Mesquite will comply with all requirements of
(Designated Representative)

the 2 CFR 200 Super Circular if the city/county spends more than \$750,000 in any funding sources during this fiscal year. And in following those requirements the City of Mesquite will submit the report to the audit division of the Texas Department of Transportation. If your entity did not meet the threshold of \$750,000.00 in expenditures, please submit a letter indicating that your entity is not required to have an audit performed for FY 19.


Signature of Designated Representative

City Manager
Title

9-15-19
Date

ATTACHMENT C

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

- A. The grantee certifies that it will or will continue to provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an ongoing drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notices shall include the identification number(s) of each affected grant;
 - (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted-
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
 - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f),

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

1340 Airport Blvd.
Mesquite, Dallas County, TX
75181

Check if there are workplaces on file that are not identified here.

Signed:  Dated: 9-5-10

Cliff Kehley, City Manager
Typed Name and Title of Sponsor Representative

ATTACHMENT D

PAVEMENT MAINTENANCE MANAGEMENT PROGRAM

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

1. Pavement Inventory. The following must be depicted in an appropriate form and level of details:

- a. location of all runways, taxiways, and aprons
- b. dimensions
- c. type of pavement
- d. year of construction or most recent 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.

2. Inspection Schedule.

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

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

- a. inspection date
- b. location
- c. distress types
- d. maintenance scheduled or performed

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

4. Information Retrieval. An airport sponsor may use any form of record keeping it deems appropriate, so long as the information and records produced by the pavement survey can be retrieved to provide a report to the FAA as may be required.

5. Reference. Refer to Advisory Circular 150/5380-6, Guidelines and Procedures for Maintenance of Airport Pavements, for specific guidelines and procedures for maintaining airport pavements and establishing an effective maintenance program. Specific types of distress, their probable causes, inspection guideline, and recommended methods of repair are presented.

Attachment E

Certification and Disclosure Regarding Potential Conflicts of Interest Certification Form

A sponsor must disclose in writing any potential conflict of interest to the Texas Department of Transportation. No employee, officer or agent of the sponsor shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

1. The employee, officer or agent.
2. Any member of his immediate family.
3. His or her partner, or
4. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The sponsor's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

Sponsor may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by state or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrant recipient's officers, employees, or agents, or by contractors or their agents.

The sponsor must maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts.

1. By checking "Yes," the sponsor certifies that it does not have any potential conflict of interest or Significant Financial Interests. By checking "No," the sponsor discloses that it does have a potential conflict of interest, which is further explained below.

Yes No

2. The sponsor maintains a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. By checking "No", the sponsor discloses that it does not have a written policy, which is further explained below.

Yes No

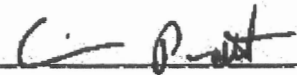
3. Explanation of items marked "no":

Sponsor's Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and have the explanation for any item marked "no" is correct and complete.

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Signature of Sponsor's Designated Official Representative: _____



Date: _____

9.3.2019

**Real Property Acquisition
Airport Improvement Program Sponsor Certification**

Sponsor: City of Mesquite Texas

Airport: Mesquite Metro Airport

Project Number: 2018MSQTE

Description of Work: Land Acquisition

Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements on real property acquisition and relocation assistance are in 49 CFR 24. The AIP project grant agreement contains specific requirements and assurances on the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Uniform Act), as amended.

Certification Statements

Except for the certification statement below marked as not applicable (N/A), this list includes major requirements for this aspect of project implementation. This list is not comprehensive nor does it relieve the sponsor from fully complying with all applicable statutory and administrative standards.

1. The sponsor's attorney or other official has or will have good and sufficient title as well as title evidence on property in the project.
 Yes No N/A

2. If defects and/or encumbrances exist in the title that adversely impact the sponsor's intended use of property in the project, they have been or will be extinguished, modified, or subordinated.
 Yes No N/A

3. If property for airport development is or will be leased, the following conditions have been met:
 - a. The term is for 20 years or the useful life of the project.
 - b. The lessor is a public agency.
 - c. The lease contains no provisions that prevent full compliance with the grant agreement. Yes No N/A

4. Property in the project is or will be in conformance with the current Exhibit A property map, which is based on deeds, title opinions, land surveys, the approved airport layout plan, and project documentation.
 Yes No N/A

5. For any acquisition of property interest in noise sensitive approach zones and related areas, property interest was (will be) obtained to ensure land is used for purposes compatible with noise levels associated with operation of the airport.
- Yes No N/A
6. For any acquisition of property interest in runway protection zones and areas related to 14 CFR 77 surfaces, property interest was or will be obtained for the following:
- The right of flight
 - The right of ingress and egress to remove obstructions
 - The right to restrict the establishment of future obstructions
- Yes No N/A
7. Appraisals prepared by qualified real estate appraisers hired by the sponsor include or will include the following:
- Valuation data to estimate the current market value for the property interest acquired on each parcel
 - Verification that an opportunity has been provided the property owner or representative to accompany appraisers during inspections
- Yes No N/A
8. Each appraisal has been or will be reviewed by a qualified review appraiser to recommend an amount for the offer of just compensation, and the written appraisals as well as review appraisal are available to Federal Aviation Administration (FAA) for review.
- Yes No N/A
9. A written offer to acquire each parcel was or will be presented to the property owner for not less than the approved amount of just compensation.
- Yes No N/A
10. Effort was or will be made to acquire each property through the following negotiation procedures:
- No coercive action to induce agreement
 - Supporting documents for settlements included in the project files
- Yes No N/A
11. If a negotiated settlement is not reached, the following procedures were or will be used:
- Condemnation initiated and a court deposit not less than the just compensation made prior to possession of the property
 - Supporting documents for awards included in the project files
- Yes No N/A

12. If displacement of persons, businesses, farm operations, or non-profit organizations is involved, a relocation assistance program was or will be established, with displaced parties receiving general information on the program in writing, including relocation eligibility, and a 90-day notice to vacate.

Yes No N/A

13. Relocation assistance services, comparable replacement housing, and payment of necessary relocation expenses were or will be provided within a reasonable time period for each displaced occupant in accordance with the Uniform Act.

Yes No N/A

Additional documentation for any above item marked "no": No

Sponsor's Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Executed on this 3 day of September, 2019.

Name of Sponsor: City of Mesquite Texas

Name of Sponsor's Designated Official Representative: Eric Pratt

Title of Sponsor's Designated Official Representative: Airport General Manager

Signature of Sponsor's Designated Official Representative: 