



Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



William Cass, P.E.
Assistant Commissioner

July 17, 2019
Bureau of Aeronautics

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Transportation to award a grant to the Pease Development Authority (Vendor Code 156846), AIP-65, to conduct a Federal Aviation Administration (FAA) agreement to provide navigational aid flight checks and technical support to facilitate the reconstruction of Runway 16/34 at the Portsmouth International Airport at Pease, Portsmouth, NH. State and Federal participation in the amount of \$137,208.50 is effective upon Governor and Council approval through July 15, 2023. 95% Federal Funds, 5% General Funds.

Funding is available as follows:	<u>FY 2020</u>
04-96-96-960030-7976	
FAA Projects	
034-500161 New Construction	\$137,208.50

EXPLANATION

A Federal Aviation Administration (FAA) grant has been awarded for \$129,987.00 (copy attached), which represents 90% of the funding for AIP-65, to conduct a Federal Aviation Administration (FAA) reimbursable agreement to provide navigational aid flight checks and technical support to facilitate the reconstruction of Runway 16/34 at the Portsmouth International Airport at Pease, Portsmouth, NH.

The FAA currently owns and maintains navigational aids and communication infrastructure at the airport. As part of the project to reconstruct Runway 16/34, it is required that FAA Technical Operations personnel provide engineering and construction support services regarding any impacts or changes to the navigational aids/communication infrastructure at the airport. This reimbursable agreement provides funding for these required FAA services for this project.

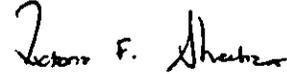
The Department of Transportation accepts the Federal Funds for this project as a pass through to the Pease Development Authority in accordance with RSA 422:15. State participation in the amount of \$7,221.50 (5% of this project) is also requested. The Pease Development Authority will participate in the amount of \$7,221.50 (5% of this project). The total cost of this airport improvement project is \$144,430.00.

In the event that the Federal Funds are no longer available, General Funds will not be requested to support this program.

In accordance with the FAA Grant Assurances C - Sponsor Certifications, Responsibility and Authority of the Sponsor, the grant funds must be immediately available for the project to execute the grant offer; therefore all funding for this project is encumbered in the first fiscal year.

Please note that the state funds are from the General Fund and have been previously approved in HB25, 2013, 195:1, XVI- A.1.

Sincerely,



Victoria F. Sheehan
Commissioner

VFS/tls

Attachments:



U.S. Department
of Transportation
Federal Aviation
Administration

GRANT AGREEMENT

PART I—OFFER

Date of Offer	<u>JUL 11 2019</u>
Airport/Planning Area	<u>Portsmouth International at Pease</u>
AIP Grant Number	<u>3-33-0016-065-2019</u>
DUNS Number	<u>620094771</u>
TO:	<u>Pease Development Authority</u> (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 Project Application dated May 1, 2019, for a grant of Federal funds for a project at or associated with the Portsmouth International at Pease Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Portsmouth International at Pease Airport (herein called the "Project") consisting of the following:

FAA Reimbursable Agreement to Provide Flight Checks and FAA Technical Support to Facilitate the Reconstruction of Runway 16/34,

which is more fully described in the Project Application.

NOW THEREFORE, According to the applicable provisions of the former Federal Aviation Act of 1958, as amended and recodified, 49 U.S.C. § 40101, et seq., and the former Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified, 49 U.S.C. § 47101, et seq., (herein the AAIA grant statute is referred to as "the Act"), the representations contained in the Project Application, and in consideration of (a) the Sponsor's adoption and ratification of the Grant Assurances dated March 2014, as applied and interpreted consistent with the FAA Reauthorization Act of 2018 (see 2018 FAA Reauthorization grant condition.), (b) and the Sponsor's acceptance of this Offer; and, (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurances and conditions as herein provided.

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety (90) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

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 \$129,987. The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):
 - \$0 for planning;
 - \$129,987 airport development or noise program implementation; and,
 - \$0 for land acquisition.
2. **Period of Performance.** The period of performance begins on the date the Sponsor formally accepts this agreement. Unless explicitly stated otherwise in an amendment from the FAA, the end date of the period of performance is 4 years (1,460 calendar days) from the date of formal grant acceptance by the Sponsor. 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 FAA authorizes a written extension, the sponsor must submit all project 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 does not relieve or reduce Sponsor obligations and assurances that extend beyond the closeout of a grant agreement.
3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Indirect Costs - Sponsor.** Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.
5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with the regulations, policies, and procedures of the Secretary. 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. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this agreement, and the regulations, policies, and procedures of the Secretary. Per 2 CFR § 200.308, the Sponsor agrees to report to the FAA any disengagement from performing the project that exceeds three months. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the assurances which are part of this agreement.
7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before August 9, 2019, or such subsequent date as may be prescribed in writing by the FAA.
9. **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 for 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. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must 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 require advance approval by the Secretary.

- 10. United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.
- 11. System for Award Management (SAM) Registration And Universal Identifier.**
- A. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
- B. Data Universal Numbering System: DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-705-5771) or on the web (currently at <http://fedgov.dnb.com/webform>).
- 12. Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.
- 13. Informal Letter Amendment of AIP Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.
- The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of condition No. 1.
- The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.
- An informal letter amendment has the same force and effect as a formal grant amendment.
- 14. 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 Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this agreement.
- 15. 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.

6. **Buy American.** Unless otherwise approved in advance 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 which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.
17. **Maximum Obligation Increase For Primary Airports.** In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:
- May not be increased for a planning project;
 - May be increased by not more than 15 percent for development projects;
 - May be increased by not more than 15 percent for land project.
18. **Audits for Public Sponsors.** The Sponsor must provide for a Single Audit or program specific audit in accordance with 2 CFR part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Provide one copy of the completed audit to the FAA if requested.
19. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR §180.200, the Sponsor must:
- Verify the non-federal entity is eligible to participate in this Federal program by:
 - 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
 - Collecting a certification statement from the non-federal entity attesting they are not excluded or disqualified from participating; or
 - Adding a clause or condition to covered transactions attesting individual or firm are not excluded or disqualified from participating.
 - Require prime contractors to comply with 2 CFR §180.330 when entering into lower-tier transactions (e.g. Sub-contracts).
 - Immediately disclose to the FAA whenever the Sponsor (1) learns they have entered into a covered transaction with an ineligible entity or (2) suspends or debars a contractor, person, or entity.
20. **Ban on Texting While Driving.**
- 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:
 - 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 a grant or subgrant.
 - Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
 - The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts and subcontracts.
21. **AIP Funded Work Included In a PFC Application.**
- Within 90 days of acceptance of this award, Sponsor must submit to the Federal Aviation Administration an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC

project also covered under this grant award. The airport sponsor may not make any expenditure under this award until project work addressed under this award is removed from an approved PFC application by amendment.

22. Exhibit "A" Property Map. The Exhibit "A" Property Map dated November 30, 2018, is incorporated herein by reference and made part of this grant agreement.

23. Employee Protection from Reprisal.

A. Prohibition of Reprisals –

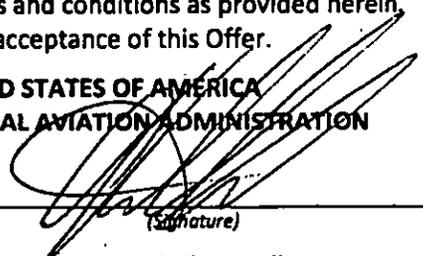
1. In accordance with 41 U.S.C. § 4712, an employee of a grantee or subgrantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (A)(2), information that the employee reasonably believes is evidence of:
 - i. Gross mismanagement of a Federal grant;
 - ii. Gross waste of Federal funds;
 - iii. An abuse of authority relating to implementation or use of Federal funds;
 - iv. A substantial and specific danger to public health or safety; or
 - v. 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:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Federal office or employee responsible for oversight of a grant program;
 - v. A court or grand jury;
 - vi. A management office of the grantee or subgrantee; or
 - vii. 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).

24. 2018 FAA Reauthorization. This grant agreement is subject to the terms and conditions contained herein including the terms known as the Grant Assurances as they were published in the Federal Register on April 3, 2014. On October 5, 2018, the FAA Reauthorization Act of 2018 made certain amendments to 49 U.S.C. chapter 471. The Reauthorization Act will require FAA to make certain amendments to the assurances in order to best achieve consistency with the statute. Federal law requires that FAA publish any amendments to the assurances in the Federal Register along with an opportunity to comment. In order not to delay the offer of this grant, the existing assurances are attached herein; however, FAA shall interpret and apply these assurances consistent with the Reauthorization Act. To the extent there is a conflict between the

assurances and Federal statutes, the statutes shall apply. The full text of the Act is at <https://www.congress.gov/bill/115th-congress/house-bill/302/text>.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project 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 Project 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)

Ms. Gall Lattrell

(Typed Name)

Deputy Director, Airports Division

(Title of FAA Official)

PART II - ACCEPTANCE

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project 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 Project Application.

I declare under penalty of perjury that the foregoing is true and correct.¹

Executed this 16th day of July, 2019.

Pease Development Authority

(Name of Sponsor)



(Signature of Sponsor's Authorized Official)

By: David R. Mullen

(Typed Name of Sponsor's Authorized Official)

Title: Executive Director

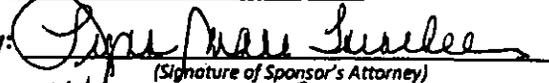
(Title of Sponsor's Authorized Official)

CERTIFICATE OF SPONSOR'S ATTORNEY

I, Lynn Marie Hinchey, acting as Attorney for the Sponsor do hereby certify:
(Typed/Printed Name of Sponsor's Attorney)

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of New Hampshire. 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 PORTSMOUTH (location) this 16th day of JULY, 2019

By: 

(Signature of Sponsor's Attorney)

NH BAR #1219

¹Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.