

RESOLUTION

**AUTHORIZATION TO EXECUTE
MINNESOTA DEPARTMENT OF TRANSPORTATION
GRANT AGREEMENT FOR AIRPORT IMPROVEMENT
EXCLUDING LAND ACQUISITION**

It is resolved by the City of Blue Earth as follows:

1. That the state of Minnesota Agreement No. 97179,

"Grant Agreement for Airport Improvement Excluding Land Acquisition," for
State Project No. 2201-50 at the Blue Earth Municipal Airport is accepted.

2. That the _____ and _____ are
(Title) (Title)

authorized to execute this Agreement and any amendments on behalf of the
City of Blue Earth.

CERTIFICATION

STATE OF MINNESOTA

COUNTY OF _____

I certify that the above Resolution is a true and correct copy of the Resolution adopted by the

(Name of the Recipient)

at an authorized meeting held on the _____ day of _____, 2010

as shown by the minutes of the meeting in my possession.

Signature: _____
(Clerk or Equivalent)

CORPORATE SEAL

/OR/

NOTARY PUBLIC

My Commission Expires: _____

GRANT AGREEMENT FOR AIRPORT IMPROVEMENT EXCLUDING LAND ACQUISITION

This Agreement is by and between the State of Minnesota acting through its Commissioner of Transportation ("State"), and the City of Blue Earth ("Recipient").

WHEREAS, the Recipient desires the financial assistance of the State for an airport improvement project ("Project") as described in Article 2 below; and

WHEREAS, the State is authorized by Minnesota Statutes Sections 360.015 (subdivisions 13 & 14) and 360.305 to provide financial assistance to eligible airport sponsors for the acquisition, construction, improvement, or maintenance of airports and other air navigation facilities; and

WHEREAS, the Recipient has provided the State with the plans, specifications, and a detailed description of the airport

NOW, THEREFORE, it is agreed as follows:

1. This Agreement is effective upon execution by the Recipient and the State, and will remain in effect until 6/30/2013.
2. The following table provides a description of the Project and shows a cost participation breakdown for each item of work:

<u>Item Description</u>	<u>Federal Share</u>	<u>State Share</u>	<u>Local Share</u>
Update Airport Zoning Ordinance -			
-Eligible Tasks (\$28,130.00)			
Tasks A1.0-Task A3.0; Task B7.0 -10.0;			
Tasks C11.0-Task C14.0; Task D17.0			
City Admin, Consultant Expenses	0%	70%	30%
-Ineligible Tasks (\$13,670.00)			
Tasks A4.0-A6.0; Task D15.0-D16.0;			
Grant Assistance; Additional Services	0%	0%	100%

3. The Project costs will not exceed \$41,800.00. The proportionate shares of the Project costs are: Federal: \$0.00, State: \$19,691.00, and Recipient: \$22,109.00. Federal funds for the Project will be received and disbursed by the State. In the event federal reimbursement becomes available or is increased for this Project, the State will be entitled to recover from such federal funds an amount not to exceed the state funds advanced for this Project. No funds are committed under this Agreement until they are encumbered by the State. No more than 95% of the amount due under this Agreement will be paid by the State until the State determines that the Recipient has complied with all terms of this Agreement, and furnished all necessary records.
4. The Recipient will designate a registered engineer (the "Project Engineer") to oversee the Project work. If, with the State's approval, the Recipient elects not to have such services performed by a registered engineer, then the Recipient will designate another responsible person to oversee such work, and any references herein to the "Project Engineer" will apply to such responsible person.
5. The Recipient will complete the Project in accordance with the plans, specifications, and detailed description of the Project, which are on file with the State's Office of Aeronautics and are incorporated into this Agreement by reference. Any changes in the plans or specifications of the Project after the date of this Agreement will be valid only if made by written change order signed by the Recipient, the Project Engineer, and the contractor. Change orders must be submitted to the State. Subject to the availability of funds the State may prepare an amendment to this Agreement to reimburse the Recipient for the allowable costs of qualifying change orders.
6. The Recipient will make payments to its contractor on a work-progress basis. The Recipient will submit requests for reimbursement of certified costs to the State on state-approved forms. The State will reimburse the Recipient for the state and federal shares of the approved Project costs.

- a. At regular intervals, the Recipient or the Project Engineer will prepare a partial estimate in accordance with the terms of the contract, special provisions, and standard specifications for the Project(s). Partial estimates must be completed no later than one month after the work covered by the estimate is completed. The Project Engineer and the contractor must certify that each partial estimate is true and correct, and that the costs have not been included on a previous estimate.
 - b. Following certification of the partial estimate, the Recipient will make partial payments to the contractor in accordance with the terms of the contract, special provisions, and standard specifications for the Project(s).
 - c. Following certification of the partial estimate, the Recipient may request reimbursement from the State for costs eligible for federal and state participation. A copy of the partial estimate must be included with the Recipient's request for payment. Reimbursement requests and partial estimates should not be submitted if they cover a period in which there was no progress on the Project.
 - d. Upon completion of the Project(s), the Recipient will prepare a final estimate in accordance with the terms of the contract, special provisions, and standard specifications for the Project(s). The final estimate must be certified by the Recipient, Project Engineer and the contractor.
 - e. Following certification of the final estimate, the Recipient will make final payment to the contractor in accordance with the terms of the contract, special provisions, and standard specifications for the Project(s).
 - f. Following certification of the final estimate, the Recipient may request reimbursement from the State for costs eligible for federal and state participation. A request for final payment must be submitted to the State along with those project records required by the State.
7. For a Project which involves the purchase of equipment, the Recipient will be reimbursed by the State in one lump sum after the Recipient: (1) has acquired both possession and unencumbered title to the equipment; and (2) has presented proof of payment to the State, and (3) a certificate that the equipment is not defective and is in good working order. The Recipient will keep such equipment, properly stored, in good repair, and will not use the equipment for any purpose other than airport operations.
 8. If the Project involves force-account work or project donations, the Recipient must obtain the written approval of the State and Federal Aviation Administration (FAA). Force-account work performed or project donations received without written approval by the State will not be reimbursed under this Agreement. Force-account work must be done in accordance with the schedule of prices and terms established by the Recipient and approved by the State.
 9. Pursuant to Minnesota Statutes Section 360.305, subdivision 4 (g) (1), the Recipient will operate its airport as a licensed, municipally-owned public airport at all times of the year for a period of 20 years from the date the Recipient receives final reimbursement under this Agreement. The Airport must be maintained in a safe, serviceable manner for public aeronautical purposes only. The Recipient will not transfer, convey, encumber, assign, or abandon its interest in the airport or in any real or personal property, which is purchased or improved with State aid funds without prior written approval from the State. If the State approves such transfer or change in use, the Recipient must comply with such conditions and restrictions as the State may place on such approval. The obligations imposed by this clause survive the expiration or termination of this Agreement.
 10. This Agreement may be terminated by the Recipient or State at any time, with or without cause, upon ninety (90) days written notice to the other party. Such termination will not remove any unfulfilled financial obligations of the Recipient as set forth in this Agreement. In the event of such a termination, the Recipient will be entitled to reimbursement for eligible expenses incurred for work satisfactorily performed on the Project up to the date of termination. The State may immediately terminate this Agreement if it does not receive sufficient funding from the Minnesota Legislature or other funding source, or such funding is not provided at a level sufficient to allow for the continuation of the work covered by this Agreement. In the event of such termination, the Recipient will be reimbursed for work satisfactorily performed up to the effective date of such termination to the extent that funds are available. In the event of any complete or partial state government shutdown due to a failure to have a budget approved at the required time, the State may suspend this Agreement, upon notice to the Recipient, until such government shutdown ends, and the Recipient assumes the risk of non-payment for work performed during such shutdown.

Pursuant to Minnesota Rules 8800.2500, the Recipient certifies that (1) it presently has available sufficient unencumbered funds to pay its share of the Project; (2) the Project will be completed without undue delay; and (3) the Recipient has the legal

authority to engage in the Project as proposed.

12. Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the Recipient will maintain such records and provide such information, at the request of the State, so as to permit the Department of Transportation, the Legislative Auditor, or the State Auditor to examine those books, records, and accounting procedures and practices of the Recipient relevant to this Agreement for a minimum of six years after the expiration of this Agreement.
13. The Recipient will save, defend, and hold the State harmless from any claims, liabilities, or damages including, but not limited to, its costs and attorneys' fees arising out of the Project which is the subject of this Agreement.
14. The Recipient will not utilize any state or federal financial assistance received pursuant to this Agreement to compensate, either directly or indirectly, any contractor, corporation, partnership, or business, however organized, which is disqualified or debarred from entering into or receiving a State contract. This restriction applies regardless of whether the disqualified or debarred party acts in the capacity of a general contractor, a subcontractor, or as an equipment or material supplier. This restriction does not prevent the Recipient from utilizing these funds to pay any party who might be disqualified or debarred after the Recipient's contract award on this Project.
15. All contracts for materials, supplies, or construction performed under this Agreement will comply with the equal employment opportunity requirements of Minnesota Statutes Section 181.59.
16. The amount of this Agreement is limited to the dollar amounts as defined in Article 3 above. Any costs incurred above the amount obligated by the State is done without any guarantee that these costs will be reimbursed in any way. A change to this Agreement will be effective only if it is reduced to writing and is executed by the same parties who executed this Agreement, or their successors in office.
17. For projects that include consultant services, the Recipient and its consultant will conduct the services in accordance with the work plan indicated in the Recipient's contract for consultant services, which shall be on file with the State's Office of Aeronautics. The work plan is incorporated into this Agreement by reference. The Recipient will confer on a regular basis with the State to coordinate the design and development of the services.
18. The parties must comply with the Minnesota Government Data Practices Act, as it relates to all data provided to or by a party pursuant to this Agreement.
19. Minnesota law, without regard to its choice-of-law provisions, governs this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.
20. For projects including federal funding, the Recipient must comply with applicable regulations, including, but not limited to, Title 14 Code of Federal Regulations, subchapter I, part 151; and Minnesota Rules Chapter 8800.
21. For all projects, the Recipient must comply, and require its contractors and consultants to comply, with all federal and state laws, rules, and regulations applicable to the work. The Recipient must advertise, let, and award any contracts for the project in accordance with applicable laws. The State may withhold payment for services performed in violation of applicable laws.
22. Under this Agreement, the State is only responsible for receiving and disbursing federal and state funds. Nothing in this Agreement will be construed to make the State a principal, co-principal, partner, or joint venturer with respect to the Project(s) covered herein. The State may provide technical advice and assistance as requested by the Recipient, however, the Recipient will remain responsible for providing direction to its contractors and consultants and for administering its contracts with such entities. The Recipient's consultants and contractors are not intended to be third party beneficiaries of this Agreement.

State Encumbrance Verification

Individual certifies that funds have been encumbered as required by Minn. Stat. §§ 16A.15 and 16C.05 _____

By: *Jahn Keller*

Date: 6-15-10

MAPS Order No: 60 4394

Recipient

Recipient certifies that the appropriate person(s) have executed the Agreement on behalf of the Recipient as required by applicable resolutions, charter provisions or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

Commissioner, Minnesota Department of Transportation

By: _____
Director, Office of Aeronautics

Date: _____

Mn/DOT Contract Management

as to form & execution

By: _____

Date: _____