

# Memorandum

## City of Lawrence

### Public Works

TO: Diane Stoddard, Interim City Manager  
FROM: Charles F. Soules, Director of Public Works  
CC: Casey Toomay, Toni Wheeler, Bryan Kidney  
DATE: January 26, 2016  
RE: Lawrence Municipal Airport – History of Requests for Skydiving

The City has received funding from the FAA for numerous improvements at the airport. This funding is typically at a 90% Federal share and 10% local (City share).

With the appropriation of Federal Funding the City agrees to certain obligations (Grant Assurances). There are 39 Grant Assurances (attached). Not all Grant Assurances are applicable to every project.

The recent skydiving requests allege the City is in violation of Assurances #22 and #23 which speak to making the airport available for all aeronautical activities. However Assurance #19 and #22 (h) and (i) provides that the sponsor (City) may establish reasonable rules (Airport Minimum Standards) and may prohibit any kind of aeronautical use if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs to the public.

Briefly summarizing the issues and events:

In 2009 Mr. McCauley expressed an interest in establishing a skydiving business at the Lawrence Airport. At that time Mr. McCauley's proposal was denied, failing to comply with the Airports Minimum Standards. Requests for additional operational and safety information for skydiving requests have not been received to date, instead just demands to allow skydiving activities. The Airport Board did hear Mr. McCauley's request at an open board/public meeting where concerns were raised by users at the Airport. The City has received written correspondence from airport businesses expressing their concerns as well as Lifestar stating that if skydiving operations were established, they would have to re-evaluate their operations in Lawrence and possibly relocate (attached).

Mr. McCauley filed an informal complaint with the Federal Aviation Administration (FAA) alleging the City was violating our Grant Assurances by not allowing skydiving operations. In 2010 the City received a letter from the FAA that the FAA had determined that skydiving could possibly be supported under certain provisions. The City requested a copy of the study (which has not been received); however in discussions with FAA personnel they did not have a map of the property owned by the City and merely reviewed the area around the airport

for obstructions and the air space. Subsequently the City developed a map and sent it to the FAA (attached).

In 2014 the City was again approached by Mr. McCauley and his attorney. They insisted that if the City did not allow skydiving to occur then they would file a formal Part 16 complaint. The City again responded that we needed to see Mr. McCauley's operational plan that complied with the Minimum Standards, and the response received was that the City had all the information that was needed.

In 2015 the City received seven requests of a similar nature without any specifics on how the skydiving operations would be conducted.

Following is a history of the request for skydiving at the Lawrence Municipal Airport:

January 14, 2009 – Mr. McCauley attended the Aviation Advisory Board Meeting, introduced himself and presented himself as interested in aerial photography.

March 9, 2009 – Staff met with Mr. McCauley and discussed his business proposal and insurance. Staff invited Mr. McCauley (via email) to speak to the Aviation Advisory Board about parachuting at the March meeting with respect to the Airport's 80<sup>th</sup> Birthday event. He responded that he was not sure due to the huge amount of out of pocket expense.

March 25, 2009 – Aviation Advisory Board Meeting - Mr. McCauley offered to perform a couple of parachuting jumps with flags at the Celebration 80<sup>th</sup> Birthday Event but advised all flight operations would have to stop in order for his parachuting jumps to occur. The Board determined Mr. McCauley's proposal would not work as part of the Celebration with all the flights occurring (the Make A Wish Foundation and local Sorority were offering flights as a fund raising event) and advised landings would have to occur off of the airport premises for traffic safety reasons.

April 1, 2009 – Staff met with Mr. McCauley to discuss the procedural process relative to the Aviation Advisory Board, Planning Commission and the City Commission.

April 2, 2009 – Mr. McCauley thanked staff for help.

April 15, 2009 – Mr. McCauley introduced Scott Hallock, a business acquaintance, to the Aviation Board. Mr. Hallock was a pilot. Mr. Hallock became confrontational with the Advisory Board.

April 23, 2009 – Letter to Mr. McCauley declining his participation in the 80<sup>th</sup> Anniversary Open House event (attached). The Board will consider his business proposal on May 6<sup>th</sup>.

April 29, 2009 – Received Mr. McCauley's request for information with deadline of May 4, 2009.

May 6, 2009 – Aviation Advisory Board minutes unanimous vote of Board not to recommend current proposal (attached).

May 20, 2009 – Received letter from Mr. McCauley requesting a written denial letter from the City of Lawrence.

June 5, 2009 – Letter of denial to Mr. McCauley concerning his business enterprise.

The City of Lawrence has communicated with the following at the FAA:

1. Chris Blum – FAA Central Regional Administrator
2. Felix Loco – FAA Kansas Flight Standards, District Office.
3. Ed Chamber – Grant Specialist in Denver

June 18, 2009 – Received letter from FAA regarding alleged violations of Grant Assurances.

July 20, 2009 – City response to alleged Grant Assurance violation (attached).

March 29, 2010 – Received letter Flight Standards District Office (FSDO) memo that determined the activity (skydiving) may be supported at the airport under certain provisions, and requested plan of action by April 30, 2010

March 31, 2010 – City requested an extension of time for plan of action.

April 5, 2010 – City requests copy of the Memorandum from the Wichita FSDO dated February 3, 2010 (attached) from Nicoletta Oliver.

April 6, 2010 – Received call from Joe Behrends, Wichita FSDO, regarding what the City of Lawrence was requesting. Charles Soules stated the City wanted to know where Mr. Behrends found adequate support for a drop zone on the airport property, and requested a copy of the map developed and used for the review and conclusion. Mr. Behrends stated he had not developed a map and did not have access to maps of the Lawrence Airport. Mr. Behrends reviewed area and air space around the airport for obstructions, and stated that runways, taxiways, and safety areas are not safe for a drop zone. Mr. Soules committed to sending the FSDO aerial photography of the airport and copy of the ALP.

April 9, 2010 – City request for time extension granted until May 31, 2010.

April 13, 2010 – Aerial maps and ALP sent to Joe Behrends, both electronically and mailed.

April 27, 2010 – Charles spoke with Mr. Behrends who had received the maps and was studying the areas.

May 28, 2010 – City submits written request to FSDO requesting copy of the report for review.

June 11, 2010 – City responds to FAA request for a Plan of Action (attached).

July 2010 – KDOT responds to an email from Mr. McCauley requesting that the City not receive any state funding for airport projects.

December 31, 2013 – Spoke with Lawrence MacDonald, FAA National Headquarters, Compliance Division and provided him with background documents of the last few years.

April 24, 2014 – Received an email from Martel Bundy, Attorney representing William McCauley.

April 28, 2014 – Met with William McCauley, Martel Bundy, Toni Wheeler, and Charles Soules

May 15, 2014 – Email to Mr. Bundy, City is reviewing areas submitted for drop zone and request a Plan of Operation for skydiving.

August 6, 2014 – Letter from Bundy; all that is needed is a designated landing zone. Operations and/or facilities have been previously provided or discussed.

August 27, 2014 – Email from Martel Bundy that he will be filing a formal Part 16 complaint with the FAA.

August 28, 2014 – City retains Jackson & Wade to represent City.

September 24, 2014

October 29, 2014

November 3, 2014

– City responds to Mr. Bundy's correspondence.

May – October 2015 – Received seven (7) requests to conduct skydiving at Lawrence Airport.

May 2015 – Provided skydiving summary and letters in opposition from airport businesses (attached).

July 13, 2015 – City requests FAA to review the skydiving requests.

November 10, 2015 – City Commission directs staff to request safety review of FAA.

November 18, 2015 – Discuss the Safety Audit with Attorney Kent Jackson and request a memorandum to City explaining FAA process.

December 1, 2015 – Received letter from Kent Jackson.

December 3, 2015 – Discussed with Lynn Martin appropriate procedure / process to request Safety Audit. Lynn was going to discuss with Wichita FSDO and let City know proper procedure.



December 8, 2015 – Sent email to Lynn asking for direction.

December 11, 2015 – Lynn Martin discussed with Jim Johnson who suggested contacting Wichita FSDO.

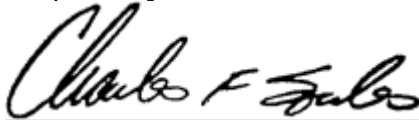
December 14, 2015 – Email to Jim Johnson requesting a call on December 16, 2015.

December 15, 2015 – Email from Jim Johnson, he will request safety analysis from Wichita FSDO.

December 29, 2015 – Send email to Johnson / Eichelberser on safety analysis.

January 6, 2016 – Received letter from Jim Johnson, Manager Central Region, FAA requesting safety audit (attached).

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Charles F. Soules". The signature is written in a cursive, flowing style with a large initial "C".

Charles F. Soules, P.E.  
Director of Public Works

CFS/ch

Enclosures



## **ASSURANCES**

### **Airport Sponsors**

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#### **A. General.**

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

#### **B. Duration and Applicability.**

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

### 3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Airport Revenue so long as the airport is used as an airport.

## C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

### 1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

#### Federal Legislation

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- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.<sup>1</sup>
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act - 5 U.S.C. 1501, et seq.<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.<sup>1 2</sup>
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.<sup>1</sup>
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.<sup>1</sup>
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.<sup>1</sup>
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.<sup>1</sup>
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.<sup>1</sup>
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.<sup>1</sup>
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.<sup>2</sup>
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

#### **Executive Orders**

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- a. Executive Order 11246 - Equal Employment Opportunity<sup>1</sup>
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction<sup>1</sup>
- f. Executive Order 12898 - Environmental Justice

#### **Federal Regulations**

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- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].<sup>4, 5, 6</sup>
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.<sup>1</sup>
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.<sup>1</sup>
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).<sup>1</sup>
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).<sup>1</sup>
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.<sup>3</sup>
- m. 49 CFR Part 20 - New restrictions on lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.

- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.<sup>1 2</sup>
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.<sup>1</sup>
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

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### **Specific Assurances**

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

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### **Footnotes to Assurance C.1.**

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- <sup>1</sup> These laws do not apply to airport planning sponsors.
- <sup>2</sup> These laws do not apply to private sponsors.
- <sup>3</sup> 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- <sup>4</sup> On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.

<sup>5</sup> Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.

<sup>6</sup> Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

**2. Responsibility and Authority of the Sponsor.**

**a. Public Agency Sponsor:**

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

**b. Private Sponsor:**

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

**3. Sponsor Fund Availability.**

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

**4. Good Title.**

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

**5. Preserving Rights and Powers.**

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



- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports 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. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

**6. Consistency with Local Plans.**

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

**7. Consideration of Local Interest.**

It has given fair consideration to the interest of communities in or near where the project may be located.

**8. Consultation with Users.**

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

**9. Public Hearings.**

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

**10. Metropolitan Planning Organization.**

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

**11. Pavement Preventive Maintenance.**

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

**12. Terminal Development Prerequisites.**

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and



has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

**13. Accounting System, Audit, and Record Keeping Requirements.**

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

**14. Minimum Wage Rates.**

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

**15. Veteran's Preference.**

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

**16. Conformity to Plans and Specifications.**

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans,

specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

**17. Construction Inspection and Approval.**

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

**18. Planning Projects.**

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

**19. Operation and Maintenance.**

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal,

state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
  - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
  - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

**20. Hazard Removal and Mitigation.**

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

**21. Compatible Land Use.**

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

**22. Economic Nondiscrimination.**

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or

to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

- 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
  - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
  - d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
  - e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
  - f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
  - g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
  - h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
  - i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.



### **23. Exclusive Rights.**

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

### **24. Fee and Rental Structure.**

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

### **25. Airport Revenues.**

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
  - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or

operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

- 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
  - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
  - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

## **26. Reports and Inspections.**

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
  - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
  - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

**27. Use by Government Aircraft.**

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

**28. Land for Federal Facilities.**

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

**29. Airport Layout Plan.**

- a. It will keep up to date at all times an airport layout plan of the airport showing
  - 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
  - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and

roads), including all proposed extensions and reductions of existing airport facilities;

- 3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and
  - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

### **30. Civil Rights.**

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.
- b. Applicability
  - 1) Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
  - 2) Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.



- 3) Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

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

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

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

e. Required Contract Provisions.

- 1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
- 2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
- 3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
- 4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a

covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:

- a) For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b) For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

### **31. Disposal of Land.**

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another

**eligible airport as prescribed by the Secretary.** The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.

- e. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

**32. Engineering and Design Services.**

It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

**33. Foreign Market Restrictions.**

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

**34. Policies, Standards, and Specifications.**

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated \_\_\_\_\_ (the latest approved version as of this grant offer) and included in this grant, and in accordance

with applicable state policies, standards, and specifications approved by the Secretary.

**35. Relocation and Real Property Acquisition.**

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

**36. Access By Intercity Buses.**

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

**37. Disadvantaged Business Enterprises.**

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

**38. Hangar Construction.**

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

**39. Competitive Access.**

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
  - 1) Describes the requests;
  - 2) Provides an explanation as to why the requests could not be accommodated; and
  - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.



# **Alligator, Inc.**

# **GUT Works, LLC**

**Flight Test Engineering Consultants**

**Premier Builder Assist Center and Aircraft Exporter**

1 May 2009

City of Lawrence, Kansas  
6 East 6<sup>th</sup> Street  
Lawrence, Kansas 66044

Attn: Charles Soules, Airport Manager  
Lawrence Aviation Advisory Board

Ref: Kansas Sky Dive Center Proposal

Dear Mr. Soules,

On the 6<sup>th</sup> May Airport Advisory Board meeting you will be considering a proposal to establish the Kansas Skydive Center at the Lawrence airport. This proposal raises numerous issues in my mind that need to be addressed prior to acceptance.

This operator needs to be aware of, and comply with all of the currently established rules at the airport. Of particular concern are the rules regarding insurance. They intend to offer, among other services, tandem jump packages. My insurance agent has advised me that insurance for tandem jump skydive operations is virtually impossible to obtain. The City needs to verify that there is adequate liability insurance obtained as a result of these operations, and verifies that the coverage includes the City as an additional insured. There should be no consideration to waiving this requirement of the airport rules.

Parachute jump operations inside the Lawrence Airport Control Zone are the most concerning aspect of their proposal. The Control Zone is approximately 10 Miles in diameter centered on the airport. Inside this area are conducted the airport operations. Aircraft operators expect all traffic to conform to the normal traffic patterns. Parachute jump operations by their nature cannot conform to these traffic patterns. Most pilots are wary of parachute jumping operations, and will give these areas a wide berth because of the obvious safety implications. Jump operations inside the control zone should be prohibited by the airport, as they will negatively impact the safety of flights into the Lawrence Airport. Many corporate airplane operators will avoid airports with jump operations. This will negatively impact my business, and I believe will negatively impact the Lawrence airport and thus the Lawrence community that relies on the airport.

Thank you.

Sincerely,

Ronald R.L. Renz  
Manager Gut Works, LLC.  
President Alligator, Inc.



May 6, 2009

Chuck Soules  
City of Lawrence  
6<sup>th</sup> & Mass.  
Lawrence, Kansas 66044

Ref: Kansas Skydive Center business proposal

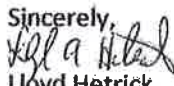
Dear Mr. Soules,

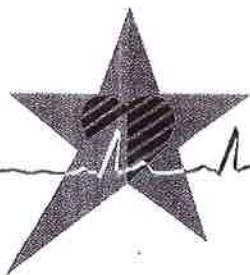
This letter is in reference to the proposal from Kansas Skydive Center to allow parachute operations at the Lawrence Municipal Airport. As the city of Lawrence FBO, this operation would be devastating to our business. The FAA has established an airport traffic control area with a 5 mile radius from the center of the airport that requires certain procedures to be followed to help assure the safety of all aircraft.

It would be safe to say that many corporate jet traffic would not even consider making Lawrence their destination airport if they have to maneuver around parachutes in the air. Our business relies heavily on corporate business travel for fuel sales. A parachuting operation would also affect the safety of our student pilots in our flight school operation.

The Lawrence Municipal Airport plays a large role in enticing corporations to relocate or expand to Lawrence. If a corporation cannot utilize the airport safely this could cause them to look elsewhere.

I would strongly recommend that the City deny Kansas Skydive Center's business proposal to locate at Lawrence Municipal Airport.

Sincerely,  
  
Lloyd Hetrick  
President



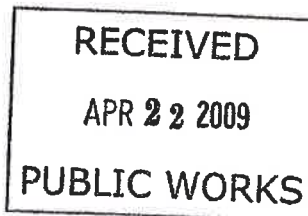
# Life Star Of Kansas

Emergency Dispatch 1.800.666.9111

P.O. Box 19224 Topeka, Ks. 66619 Admin Phone 785.862.5433

April 20, 2009

Rob Chestnut, Mayor  
Lawrence City Hall  
PO Box 708  
Lawrence, KS 66044



Mayor Chestnut,

It has been brought to my attention that the Kansas Skydive Center has presented a proposal to locate a base of operations at the Lawrence Municipal Airport. This letter is to express our strong opposition to that proposal.

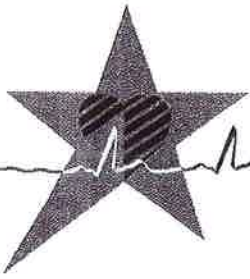
Life Star of Kansas is a not-for-profit, Kansas corporation providing critical care and emergency transport for the sick and injured in northeast Kansas since 1988. We are the area's only provider of this service, with the next closest aircraft being based in Osage City, KS, Harrisonville, MO and Blue Springs, MO. Our Lawrence aircraft has been based at the Lawrence airport for a number of years and responds to interhospital and scene requests for care and transport of critically ill and injured patients in Douglas, Jefferson, Franklin, Leavenworth, Johnson and other area counties. We rely on the ability to gain timely clearance from the airport in able to quickly and safely respond to area emergency needs.

We have experience operating in the vicinity of skydiving operations in Osage City. For the safety of the skydivers as well as our people we routinely delay any lift-off until all sky-divers are on the ground, a time that can be five minutes or longer. In Osage City this delay is not as critical as in Lawrence since the Osage City aircraft is not nearly as busy and the majority of the flights for that aircraft are for patients being transported from a controlled hospital environment under the direct care of a physician. Our Lawrence aircraft responds to a large number of scene (non-hospital) events, where time can be a much more critical factor in patient survival.

The sky-diving operation in Osage City is significantly different than the one being proposed in Lawrence. For one thing, sky-diving in Osage City only occurs on weekends and is not done year-round. The Lawrence operation will operate year-round, seven days per week. For another, the Osage City sky-divers were there before us. We opted to locate there, anyway, based on the high percentage of interhospital transports we do out of that base, as well as the relatively lower volume of flights done by that base. We have developed a good, working relationship with that sky-dive company that maintains safety for both operations through enhanced communications of drop zones and flight plans. It works, in part, due to the smaller nature of both operations. This would not be the case at Lawrence.

Suffice it to say that if a sky-diving operation is allowed to locate at the Lawrence Municipal Airport we will likely be required to look for another location for our Lawrence base. I simply cannot see a scenario where we can operate safely and optimally in the same airspace as a major sky-dive operation, as proposed.





**Life Star**  
**Of Kansas**

**Emergency Dispatch 1.800.666.9111**

P.O. Box 19224 Topeka, Ks. 66619 Admin Phone 785.862.5433

While I realize sky-diving is an attractive spectator and participant activity, it is also a difficult activity to safely co-exist with an operation like ours. While I wish the Kansas Skydive Center well, and while I have a number of friends who enjoy sky-diving, it is my sincere hope that they find their success somewhere other than at Lawrence Municipal Airport.

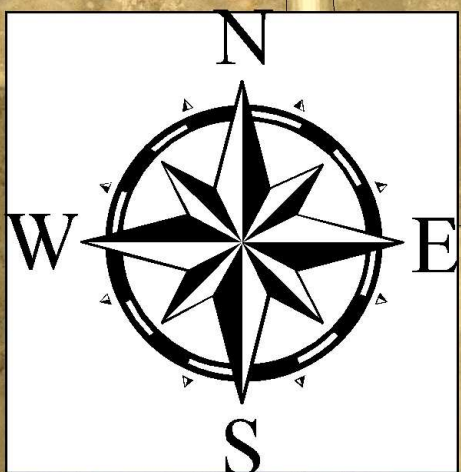
Thank you for your consideration of our concerns. If I can provide additional information please do not hesitate to let me know.

Sincerely,

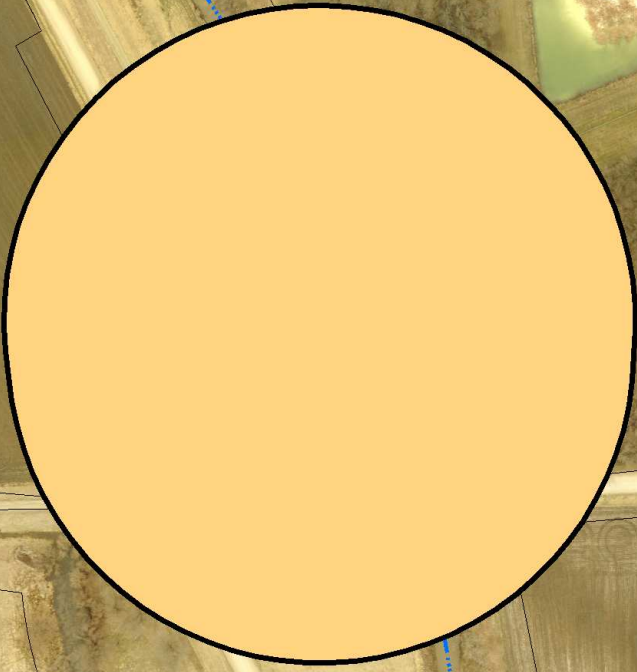
Greg Hildenbrand, FACHE, CMTE  
Executive Director  
Life Star of Kansas

Cc: David Corliss, City Manager  
Rick Bryant, Chair, Aviation Advisory Committee  
Chuck Soles, Airport Manager





- Powerlines
- Property Line
- Hawkeye
- Future Hangers
- Future Apron and Taxi
- Water
- Runway Safety Area
- Runway Approach
- Object Free Area
- 100 yd Buffer



400 Ft Radius Landing Zone Needed  
500,000 Sq Ft

Lifestar  
Helicopter

Hawkeye  
Helicopter

Proposed  
Hangars

1 inch = 250 feet







# City of Lawrence

## PUBLIC WORKS

DAVID L. CORLISS  
CITY MANAGER

City Offices  
PO Box 708 66044-0708  
[www.lawrenceks.org](http://www.lawrenceks.org)

6 East 6<sup>th</sup> St  
785-832-3000  
FAX 785-832-3405

### CITY COMMISSION

MAYOR  
ROBERT CHESTNUT

COMMISSIONERS  
MIKE AMYX  
ARON E. CROMWELL  
LANCE M. JOHNSON  
MICHAEL DEVER

April 23, 2009

Mr. William McCauley  
1222 Prospect  
Lawrence, KS 66044

Dear Mr. McCauley:

Thank you for your interest in participating in the Lawrence Airport 80<sup>th</sup> Anniversary Open House event. As we discussed on the phone on April 23, 2009, the City declines your offer to provide parachuting/skydiving services or operations at the event.

With respect to your request to start a business, Kansas Skydive Center, at the airport, the City would encourage any business desiring to establish a facility at the Lawrence Municipal Airport. As previously discussed, your business proposal will be reviewed by the Airport Advisory Board at their meeting on May 6, 2009 at 6:30 p.m. Pending the Board's review the City is willing to work with your firm to establish a lease for space to construct a hanger/office and offer airport services providing your firm meets all insurance requirements, minimum standards for establishing a business at the airport, and meets all applicable City codes. Jumping/landing operations, however, will need to take place offsite of the airport property.

Please let me know if you have any questions.

Sincerely,

Charles F. Soules, P.E.  
Director of Public Works

CFS/je



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MEMBERS PRESENT:	Rick Bryant, Gary Fish, Theresa Gordzica, Richard Haig, Bob Newton, Tom Rainbolt & Stan Sneegas
MEMBERS ABSENT:	None
STAFF PRESENT:	Chuck Soules, Mark Thiel, Steve Bennett & Roger Zalneraitis
PUBLIC PRESENT:	Larry Kellogg, Karen Kellogg, William McCauley – Kansas Skydive Center, Jim Marchello (Speaker #7), Maria Preston-Cargill, Greg Hildenbrand (Speaker #1), Cort Buffington (Speaker #9), Shannon O-Connor (Speaker #6), Ron Renz (Speaker #3), Rob Renfro (Speaker #5), Jerry Strumpf (Speaker #8), Adrian Home, Bruce Liddel (Speaker #2) & Lloyd Hetrick – FBO (Speaker #4)

Board Chair Rick Bryant called the meeting to order at 6:30 p.m.

**1. Review and approval of April 15, 2009 meeting minutes**

The April 15, 2009 Board Meeting minutes were reviewed. Gary Fish moved and Richard Haig seconded the motion to approve the minutes. Motion passed by a vote of 7-0.

**2. Airport Manager's Report**

Chuck Soules updated the Board concerning the items in the attached Airport Manager's Report.

**3. FBO Report**

Lloyd Hetrick discussed upcoming events.

**4. William McCauley's Kansas Skydive Center Proposal**

Mr. William McCauley presented a revised proposal for The Kansas Skydive Center to be located at the Lawrence Municipal Airport. He described the proposal and answered Board Member questions. Members of the public (identified above) were given the opportunity to express their opinions about the proposal. Eight speakers opposed the plan and one was neutral to the plan. Bob Newton moved the Lawrence Aviation Advisory Board (LAAB) recommend disapproval with the option of resubmitting the proposal with an offsite drop zone. The motion died for lack of a second. Tom Rainbolt moved LAAB recommend disapproval of the proposal. Gary Fish seconded the motion. Motion passed by a vote of 7-0.

**6. 80<sup>th</sup> Anniversary Event Planning**

Maria Preston-Cargill, Lawrence Journal-World presented the media plan for the 80<sup>th</sup> Anniversary Event. The LAAB and audience were very appreciative of the substantial contributions of the World Company. Various logistical details were discussed. Rick Bryant reviewed the schedule and assignment list.

**6. Other Business**

Rick Bryant announced his departure for the LAAB and the Board Members praised his many years of quality service to the City of Lawrence.

The meeting was adjourned at approximately 9:45 p.m.

*Next Meeting time is to be announced  
in the Richardson Memorial Pilots' Lounge at the Lawrence Municipal Airport Terminal Building.*



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LANCE M. JOHNSON  
MICHAEL DEVER

June 5, 2009

Mr. William McCauley  
1222 Prospect  
Lawrence, KS 66044

Dear Mr. McCauley,

On behalf of the Aviation Advisory Board for the city of Lawrence, this letter will serve as the board's official response to your recent submission of a business proposal to locate a skydiving business at the Lawrence Municipal Airport.

At its May 6 board meeting, the Aviation Advisory Board received your proposal and along with public input and individual board members' research, the board voted 7-0 to recommend to the Lawrence City Commission that your business enterprise not be allowed to locate and operate at the airport. The board's decision was based largely on significant safety concerns and incompatibility with airfield operations with existing businesses present at the airport.

The board extends its appreciation for your consideration of the Lawrence Municipal Airport as a potential base of operations; and wishes you success in your future endeavors.

Sincerely,

Chuck F. Soules, P.E.  
Director of Public Works  
Public Works Division  
City of Lawrence  
6 E 6<sup>th</sup> St.  
Lawrence, KS 66044

Cc: Aviation Advisory Board  
David Corliss, City Manager



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## CITY COMMISSION

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LANCE M. JOHNSON  
MICHAEL DEVER

July 20, 2009

Nicoletta S. Oliver  
Airports Compliance Specialist  
U. S. Department of Transportation  
Federal Aviation Administration  
901 Locust  
Kansas City, MO 64106-2325

RE: Lawrence Municipal Airport, Lawrence, Kansas  
Allegations of Violations of Grant Assurances

Dear Ms. Oliver:

This correspondence is in response to your letter of June 18, 2009 requesting a written reply to a complaint from Mr. William McCauley alleging possible grant assurance violations regarding unjust economic discrimination and exclusive rights by the City of Lawrence. The City denies it violated Assurances 22 and 23 in its review of Mr. McCauley's skydiving business proposal.

Mr. McCauley's first contact with the Lawrence Aviation Advisory Board was in January 2009 where he sat as an observer with an interest in developing a potential business at the airport; then in March 2009 he introduced himself and his company's business as aerial photography. Only later did we discover that Mr. McCauley's interest was to develop a skydiving business.

The City of Lawrence and the Lawrence Aviation Advisory Board have established minimum standards for the development of a business at the airport. Those standards were approved in November 2004 and were reviewed by the FAA to ensure compliance with FAA rules/guidelines. Those standards are available to the public on the City's website (enclosed).

Mr. McCauley's proposal, as submitted, failed to comply with the Airport's Minimum Standards in a number of important respects. It did not provide evidence that Mr. McCauley had the requisite forms of insurance required in Paragraph I.8. (Insurance). The City requires all businesses that locate on airport property to carry a minimum Comprehensive General Liability coverage of \$1 million, Comprehensive Vehicle Liability of \$500,000/person, Aircraft and Hanger Liability, if applicable. Mr. McCauley only provided a policy of \$50,000 Combined Bodily Injury



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and Property Damage. Mr. McCauley contended that a proposed waiver eliminates all liability. Waivers executed by participants are not an acceptable replacement for insurance.

Mr. McCauley did not provide sufficient information regarding the aircraft to be used in the operation thereby preventing the City from evaluating the operation's compliance with paragraph I.2. (Aircraft) of the Minimum Standards. Mr. McCauley alluded to a turbine aircraft which implies the potential for jumps at elevations of 13,000 feet or greater. Referencing turbine aircraft also implies that the proposal is not a "club" operation but may hold 16 or more jumpers. Skydiving operations of this size raise additional issues of safety for the skydive operations and aircraft.

Mr. McCauley did not demonstrate that the operation's personnel met the requirements of the Minimum Standards. He stated, "Employees are not a normal part of this type of business due to liability issues." Mr. McCauley is not licensed as a S&TA (Safety & Training Advisor), nor is he a licensed pilot. Mr. McCauley did not know who his pilot would be.

Mr. McCauley's proposal omitted other material information, leaving the Airport Advisory Board and the City to seriously question Mr. McCauley's ability and capacity to undertake the proposed operation and skydiving activities. The financial plan submitted was insufficient for the City to evaluate whether his proposal was a viable business or not. Start-up costs, operating expenses, employee costs, insurance and marketing costs were unknown and to be determined. There was insufficient detail concerning the operations, including: the facility, equipment, and technology requirements, labor requirements, training, compensation, inventory management, operation methods, start up schedule, capital equipment and budgets. Moreover, Mr. McCauley has no previous experiencing running a commercial skydiving operation, or any other business operation. Mr. McCauley's associate, Mr. Altman, is a novice skydiver.

Mr. McCauley alleges that minimum standards are being used in an unjust and discriminatory fashion by requiring him to have a building or leased space in place before he can conduct his aeronautical activity. His proposal states, however, that "the Kansas Skydive Center proposes... to build their facilities a 70 x 100 ft. hanger with additional 20 x 50 ft. offices and appropriate tarmac and parking lot... at the approval of the City Planning Board and Lawrence City Commission." He proposed to construct facilities but then provided no plans for the City to evaluate.

The City of Lawrence, through its police powers, has adopted zoning regulations for all properties within the City limits. All the airport property is within the City limits and is zoned. Currently the Airport is zoned GPI (General Public and Institutional). The GPI district allows recreational facility uses; however, skydiving operations require a special use permit. Mr. McCauley has not made application for zoning, site plan, plat, layout or building permit. Therefore, the operation did not have the required zoning approval to locate at the Airport.

In addition to the incompleteness of his proposal and the non-compliance with the City's zoning regulations, the City had concerns about whether Mr. McCauley's proposed skydiving operation was compatible with the safe operation of the Airport and the civil aviation needs of the public.

Lawrence Municipal Airport reports more than 32,000 flight operations annually (involving rotor, single, twin and business jet) and has significant training operations. The Airport conducts more



than 2,000 business jet operations annually, including limited international operations. Kansas City Flight Standards office advised they did not have any recommended areas in the airspace around the Lawrence Municipal Airport for skydiving due to the proximity of the Kansas City and Topeka airspace zones.

The Lawrence Airport is located in Class "E" airspace - meaning non-controlled. It is transition airspace. It is close to the Kansas City Class "B" airspace and inside the mode C ring. Aircraft approaching Kansas City must have clearance to enter Class B airspace. Aircraft flying through Lawrence airspace are already talking to a controller and not monitoring the Lawrence advisory frequency. Aircraft departing Kansas City usually remain on departure frequency until clear of the Class B airspace. Therefore, pilots approaching Lawrence only have two to three minutes before reaching the airport to communicate intentions, pick up the weather, do the pre-landing check list, while looking for other aircraft. There is additional potential for conflicts when adding aircraft from Topeka Forbes, arrivals into Kansas City International Airport (MCI) and Charles B. Wheeler Downtown Airport (MKC) being brought down for approaches, aircraft practicing instrument approaches, and normal activity into Lawrence. Along with the traffic, controllers, and frequencies pilots could be listening to Approach/Departure, LWC 123.00, ASOS 121.225, Vinland (K64) 122.9, and Center. When a skydiving operation prepares for jumpers away they give a warning to ATC and the local CTAF. Aircraft in the area wanting to know their location will often get no response since the jump aircraft has switched over to the other frequency. Skydiving operations at Lawrence would put an unnecessary burden on controllers and pilots. It would be critical that different controllers communicate accurately and quickly with each other and aircraft to avoid conflicts --keeping in mind they have no authority or control over the skydive aircraft since their operations are outside the controlled airspace.

The City was not the only entity that had safety concerns about proposed skydiving operations at the Airport. The City conferred with a number of officials in FAA after Mr. McCauley shared his general plans. FAA Central Region Administrator, Chris Blum, and FAA's Kansas Flight Standards District Office, Felix Loco, both noted the Airport's high volume and types of aeronautical activities, expressing concern about the accommodating all of the operations.

Ed Chambers, FAA Central Region Administrator also informed the City that an airport does not have to lease property to any entity that the Airport deems unsuitable or unstable to complete the Airport lease obligations.

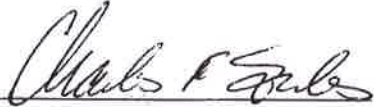
With respect to compatibility with other business at the Airport, the City received concerns from three established businesses stating that skydiving operations would negatively affect their businesses. Life Star of Kansas, an emergency services provider, expressed relocating their operation to another location if skydiving operations were approved. The Life Star operation is an important safety/emergency responder for the entire community of Lawrence and Douglas County.

The City has not identified, nor studied, if there might be a specific area at the airport that could accommodate skydiving. Typically the business prospect would provide a proposal for the City to review. The City airport should not be expected to expend resources (financial or otherwise) for a "for-profit" business. However, the City made inquiries to FAA Standards District Office and Kansas City Airspace Office and was provided the guidance that the Lawrence airspace has too many conflicts with air traffic to safely permit skydiving activities.



Finally, the City of Lawrence welcomes development and new business opportunities. The skydiving operation proposed did not provide sufficient information to address operational/safety concerns or provide adequate information to evaluate the business.

Sincerely,



Charles F. Soules, P.E.  
Director of Public Works  
Airport Manager



Toni R. Wheeler  
Director of Legal Services

CFS/je

Enclosure



# **Federal Aviation Administration**

---

## **Memorandum**

Date: February 3, 2010

To: Nicoletta Oliver, Airports Division, ACE-600

From: Manager, Flight Standards District Office, ACE-FSDO-07

Prepared by: Joseph D. Behrends, (316)-941-1224

Subject: Request for Safety Determination, Informal Complaint, Mr. William  
McCauley

---

This memo is in response to an Airports Division request for a safety determination of a proposed parachute operation at the Lawrence Municipal Airport (LWC). The City of Lawrence denied Mr. McCauley access to LWC for his commercial aeronautical skydiving business, on the grounds that such operations are unsafe. This office was tasked to complete a safety review of the proposed parachute operation at LWC to substantiate this claim. Based upon the results of the safety review, it has been determined that the proposed parachute operation on the LWC airport can be supported from a safety standpoint provided the following provisions are met.

### **Airport Considerations:**

- a. Weather conditions must be VFR and present no hazard for the jumpers or present visibility conditions which preclude pilots from maintaining visual contact with jump participants.
- b. United States Parachute Association's (USPA) Basic Safety Requirements must be followed.
- c. Numerous areas on the field comply with USPA Basic Safety Requirements regarding Drop Zone Requirements, however, an agreement between the parachute business and airport management must be reached regarding a location on the airfield for a drop zone. Alternate Landing Areas must be established prior to parachute operations.
- d. A NOTAM must be established to advise all users of the LWC airport of the parachute jump activities.

- e. The jump aircraft pilot will establish and maintain communication with Kansas City Center, and visually scan the area to ensure aircraft are not entering or maneuvering within the traffic pattern prior to authorizing jumpers to depart the aircraft.
- f. Radio transmissions will be conducted by the jump aircraft on the LWC CTAF frequency to alert anyone in the area that jump activities are in progress.
- g. Jumpers will be briefed of the requirements and recommended procedures in AC 90-66A Paragraph 9(e), to maintain directional control at all times and remain clear of the runways, taxiways, aprons, and their associated safety areas.
- h. Runway Safety Areas (RSA) should be defined and clearly marked prior to the commencement of a parachute operation.
- i. Airport management will ensure the Airport Facility Directory and the Kansas City Sectional are updated to reflect a designated Parachute Drop Zone has been established at LWC.
- j. Airport management will ensure the advisory information is updated to advise all who utilize LWC airport that a Parachute Drop Zone has been established and its location on the airport.
- k. Airport management will advise all operators based at LWC airport of the establishment and location of a Parachute Drop Zone at the airport.

**Air Traffic Control Considerations:**

- a. A report from Kansas City ARTCC states that there exists a considerable volume of IFR and VFR air traffic in the area especially on the Jayhawk STAR Arrival. The center of the arrival is located 4 NM Southeast of LWC. The parachute activity must be restricted to a 2 NM radius of the airport center to minimize conflicts. Traffic advisories should be provided to participating aircraft during parachute operations.
- b. A complicating factor is that a recurring TFR exists over Kansas University sports stadium during sports activities. The TFR encompasses a 3 NM radius which intersects with LWC airport. Flight operations are allowed into the airport with coordination with ATC. However, parachute operations require coordination and a waiver with the TSA if the jumps are conducted during the active TFR time. The responsible person must receive prior approval from TSA before beginning the parachute operations.

If you have any questions, please feel free to contact this office at your convenience.



# City of Lawrence

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ROBERT CHESTNUT

June 11, 2010

Nicoletta S. Oliver  
Airports Compliance Specialist  
U. S. Department of Transportation  
Federal Aviation Administration  
901 Locust  
Kansas City, MO 64106-2325

RE: Lawrence Municipal Airport  
Informal Complaint  
Response to March 23, 2010 Correspondence

Dear Ms. Oliver:

The City of Lawrence received correspondence from the FAA dated March 23, 2010 requesting two items:

- A plan of action consistent with FSDO's safety review as referenced in a February 3, 2010 memorandum from Mr. Behrends, "to substantiate whether it will be feasible to reasonably accommodate skydiving activities at the Airport or not"; and
- Revisions to the Lawrence Municipal Airport's minimum standards related to insurance requirements for skydiving operators.

With respect to the first request, the City awaits additional information from the Wichita FSDO. Mr. Behrends' February 3, 2010 memorandum preliminarily determined that the Lawrence Municipal Airport could, with conditions, support the proposed skydiving operation. Those conditions identified operational issues, briefly summarized:

- Weather conditions must be VFR
- USPA safety regulations should be followed
- A NOTAM must be posted
- Communications with Kansas City Center and LWC
- Airport Management will advise operators based at the airport and the Airport Facility Directory that a parachute drop zone has been established.

On April 5, 2010, the City requested a copy of Mr. Behrend's safety study referenced in his February 3, 2010 memorandum. I received a call from Mr. Behrends on April 6, 2010 regarding what the City had requested. We discussed the City's uncertainty as to where the FSDO found sufficient/adequate area on airport property to support a drop zone as enumerated in his correspondence, specifically Item C: "numerous areas on the field comply with USPA Safety Regulations". At that time Mr. Behrends disclosed that he had not developed a map identifying



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an area sufficient to be designated as a drop zone. I committed to sending aerial photography and the Airport ALP to Mr. Behrends to assist in identifying areas sufficient for skydiving operations at the Airport. On April 13, 2010, I sent Mr. Behrends the maps (both hard copy and electronically). Mr. Behrends confirmed receipt of the materials on April 27, 2010.

On April 20, 2010 Richard Haig, Airport Board Chairman, visited the Wichita FSDO and discussed with Mr. Behrends the minimum area the FAA would allow for a drop zone. According to the USPA publication, Size and Definition of Landing Areas, Section 7 of the Skydivers Information Manual, the size for an open field is no less than 500,000 sq. ft. (400 ft. radius circle). Mr. Haig and Mr. Behrends also discussed other minimum requirements for a drop zone. Those items included:

- 1) A drop zone could not be located on runways, taxiways, or aprons,
- 2) A drop zone could not be located in the identified object/obstacle free areas and runway protection zone,
- 3) A safety buffer of 100 yards minimum from the areas identified in items 1) and 2), and also away from roads, streets, power lines and buildings,
- 4) A drop zone could not be located in an area that contains water.

On May 11, 2010 you informed me that the Wichita FSDO requested the City submit a written request to review city owned property at the airport for the purpose of identifying an acceptable drop zone. On May 28, 2010, the City submitted a written request to the FSDO, as requested. As of the date of this letter, the City has not received additional information from the FSDO.

While we agree with the FSDO operational conditions set forth in Mr. Behrends' February 3 memorandum, based upon the information that the City has received, there does not appear to physically be an area of sufficient size at our Airport to safely accommodate a drop zone for this activity. However, we will certainly consider any area identified by the FSDO.

The identification of an area or areas at the Airport suitable to accommodate skydiving activities is not the only issue of concern for the City. Mr. McCauley's proposal to the City contained a number of other deficiencies that greatly concern the City. The issues identified in correspondence dated July 20, 2009 from the City to the FAA have not been addressed. Briefly those included:

- 1) Failure to comply with the minimum standards for:
  - I. Insurance,
  - II. Insufficient information regarding/addressing operational issues, equipment, aircraft communication,
  - III. Qualified instructors, pilots and personnel,
  - IV. Financial plan including operational costs, start-up capital costs, and budgets,
  - V. Experience,
  - VI. Facility – where would the business be conducted and equipment stored.
- 2) Non-compliance with City's zoning regulations which would include a special use permit, zoning application, site plan, plat, facility/building layout. All businesses at the Lawrence Municipal Airport have met/complied with the minimum standards and City zoning regulations.

With respect to your second request concerning the Airport's minimum standards, we report that on June 8, 2010, the City Commission approved changes to the minimum standards concerning insurance requirements for skydiving operations. The proposed changes were previously reviewed and approved by the FAA. The revised Minimum Standards are enclosed.

Please let me know if you have any questions.

Sincerely,

Charles F. Soules, P.E.  
Director of Public Works

CFS/je

Encl.: Insurance Requirements/Skydiving Operations  
Map





# City of Lawrence

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While we agree with the FSDO operational conditions set forth in Mr. Behrends' February 3 memorandum, based upon the information that the City has received, the attached map has been developed and there does not appear to physically be an area of sufficient size at our Airport to safely accommodate a drop zone for this activity. However, we will certainly consider any area identified by the FSDO.

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- 1) Failure to comply with the minimum standards for:
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  - IV. Financial plan including operational costs, start-up capital costs, and budgets,
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All businesses at the Lawrence Municipal Airport have met/complied with the minimum standards and City zoning regulations.

With respect to your second request concerning the Airport's minimum standards, we report that on June 8, 2010, the City Commission approved changes to the minimum standards concerning

insurance requirements for skydiving operations. The proposed changes were previously reviewed and approved by the FAA. The revised Minimum Standards are enclosed.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles F. Soules". The signature is fluid and cursive, with the first name "Charles" being more prominent.

Charles F. Soules, P.E.  
Director of Public Works

CFS/je

Encl.: Insurance Requirements/Skydiving Operations  
Map

cc: David L. Corliss, City Manager  
Toni Ramirez Wheeler, Director of Legal Services

# Memorandum

## City of Lawrence

### Public Works

TO: David L. Corliss, City Manager; Diane Stoddard, Interim City Manager  
FROM: Charles F. Soules, Director of Public Works  
CC: Casey Toomay  
DATE: May 18, 2015  
RE: Airport Skydiving

The purpose of this memo is to provide a brief summary of skydiving requests.

The Lawrence Municipal Airport is a General Aviation Facility with approximately 30,000 +/- operations annually. The Airport operates in an uncontrolled airspace which means we do not have a Control Tower to monitor operations. Pilots use VFR (Visual Flight Rules – Line of sight) or IFR (Instrument Flight Rules – when visibility is not adequate the use of instruments to guide the airplane) for navigation.

In 2009 the City received a request to establish a skydiving operation at the Airport from Mr. William McCauley.

Mr. McCauley's first contact with the Lawrence Aviation Advisory Board was in January 2009 where he sat as an observer with an interest in developing a potential business at the airport; then in March 2009 he introduced himself and his company's business as aerial photography. Only later did we discover that Mr. McCauley's interest was to develop a skydiving business.

The City of Lawrence and the Lawrence Aviation Advisory Board have established minimum standards for the development of a business at the airport. Those standards were approved in November 2004 and were reviewed by the FAA to ensure compliance with FAA rules/guidelines. Those standards are available to the public on the City's website.

Mr. McCauley's proposal as submitted, failed to comply with the Airport's Minimum Standards in a number of important respects, including:

- Insurance requirements
- Financial/business plan
- Equipment/aircraft,
- Certifications or licenses to perform skydiving
- Safety plan

Several airport businesses including Lifestar expressed safety concerns about the business proposal. Lifestar provided correspondence which stated that due to the nature of emergency response that if a skydiving "center" was to locate at the airport, Lifestar would have to evaluate their operations and potentially relocate to another airfield (attached letters).

After the Aviation Boards review of the proposal the city respectfully recommended to the City Commission not to allow this operation to establish at the airport for safety reasons.

The City has received Federal Funding for many improvements at the Airport. As recipient of Federal Funding, the City agrees to certain "assurances" (basically that the airport is open to all aviation activities).

In June 2009 Mr. McCauley filed an informal complaint with the FAA – Kansas City office alleging possible grant assurance violation regarding unjust economic discrimination and exclusive rights by the City of Lawrence.

In February 2010 the Wichita Flight Standards District Office (FSDO) provided a letter that inferred that the City could, with conditions, accommodate the proposed skydiving operations.

In April 2010 the City requested a copy of the report that should have been completed and map of the area(s) that the FAA thought could accommodate a drop zone. In discussions with FAA personnel there was not a thorough review nor were any maps of City owned property completed. The City sent the maps of the airport, Minimum Standards that were approved by the FAA and relevant zoning code information to the FSDO office. Despite numerous requests for follow up from the FAA, to date the City has not received any response. The FAA personnel involved have been reassigned or retired.

#### **Current Status**

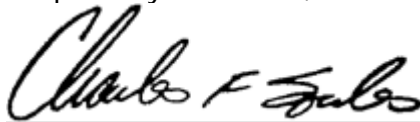
The City has responded to all FAA requests.

In April 2014 Mr. McCauley hired an attorney on his behalf to file a formal complaint, Part 16 complaint, against the City.

Recently, May 13, 2015, the City received a request from David Ternes to conduct recreational skydiving activities. Staff will review the proposal and provide Mr. Ternes a response.

Please let me know if there are any questions or if additional information is needed.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Charles F. Soules", is written over a light gray rectangular background.

Charles F. Soules, P.E.  
Director of Public Works

CFS/ch

Attachments: Letters



U.S. Department  
of Transportation

**Federal Aviation  
Administration**

Central Region  
Iowa, Kansas,  
Missouri, Nebraska

901 Locust  
Kansas City, Missouri 64106  
(816) 329-2600

January 5, 2016

Mr. Jerald Eichelberger  
Mid-Continent Airport  
Wichita FSDO-07  
1801 Airport Road  
Wichita, KS 67209

Parachute Safety Analysis for Lawrence Municipal Airport

Dear Jerry,

There have been requests for parachuting operations at the Lawrence Municipal Airport (LWC). In order to help LWC officials respond appropriately to the requests, we request your assistance by conducting a safety analysis of the airport. The intent of the analysis is to determine if parachute operations can be safely accommodated and if any specific airport and/or air traffic provisions must be implemented to ensure operational safety.

In addition to provisions that must be put in place to safely accommodate parachute operations, the airport would appreciate guidance in determining safe Parachute Landing Areas (PLAs). If not included in the report, this is something that can be discussed at a later date after the study is complete.

One of the concerns the airport has expressed with accommodating parachute operations is the potential conflict this may cause with the life flight service provided at the airport by Life Star. Please take this emergency operation in to consideration in your analysis.

Please let us know if you have any questions or concerns or if you need additional information. Our Compliance Specialist, Lynn Martin, will be the FAA Airports Division point of contact for this effort. Lynn can be reached at 816-329-2644.

Sincerely,

Jim A. Johnson  
Manager  
Central Region  
Airports Division