



Agenda Item:

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COUNCIL COMMUNICATION City Manager's Office

GENERAL INFORMATION

Agenda Date: 08/03/05
Agenda Item Type: Resolution

Communication No.: 05-425
Roll Call No.:

Submitted by: Robert L. Hagner, Aviation Director
Jeb E. Brewer, P.E., City Engineer

SUBJECT—

Approving and Authorizing the Execution of Federal Aviation Administration AIP Grant Agreement, Project Number 3-19-0027-40-2005 Airport Runway 13R-31L, Land Acquisition, Phase 1.

SYNOPSIS—

Approval of the FAA Grant and Authorization for the Mayor to execute a Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grant in a 95% Federal share amount of \$1,295,351.00, along with City acceptance and ratification of all associated Grant assurances, warranties, covenants and agreements contained in the project application for the funding of the Airport Runway 13R – 31L, Land Acquisition, Phase 1 project.

FISCAL IMPACT—

Funds have been programmed in the Capital Improvements Program under 543080, EN004, AIR990000, AIR117 for all acquisitions associated with this overall Runway 13R-31L replacement project. The ultimate cost of the property acquisitions and associated relocation expenses is currently estimated at \$16 million. The Airport is required by FAA to have at least a signed purchase agreement for every property that will be reimbursed in an AIP grant before the grant is offered by FAA. Therefore, the Airport has acquired property financed by approved commercial paper program prior to receiving an offer for a Federal AIP grant for reimbursement. Currently the Airport has approximately \$3.195 million in property expenses. This 95% federal share AIP grant in an amount of \$1,295,351.00 is the first in a series of AIP grants for reimbursement of Runway 13R-31L property acquisition.

RECOMMENDATION—

Approval

BACKGROUND—

On July 29, 2003, the Federal Aviation Administration approved a Finding of No Significant Impact / Record of Decision (FONSI) and Section 4(f) Determination for the proposed Runway 13R-31L construction. The Federal

Aviation Administration's approval of the FONSI and Section 4(f) Determination constitutes the Federal approval for the actions identified and any subsequent actions approving a grant of Federal funds for the project beginning with land acquisition. The acquisition of approximately 283 acres of property, including 22 residential properties, needed for the proposed runway and its approaches is included in the finding. The FONSI specifies, and Federal Regulations require, that acquisition of residences and farmland must conform to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Land acquisition as well as the construction of the new runway and taxiways will depend upon the availability of Federal and Airport funds.

The Airport is required by the FAA Airport Improvement Program process to acquire properties prior to their inclusion in a 95% Federal grant share project that would ultimately fund the acquisition expense. For this reason, Engineering and Airport staff work closely with FAA staff in an attempt to time the acquisitions so that they will occur just prior to the availability of a FAA AIP grant in order minimize the carrying costs required until 95% of the property expense can be reimbursed with an FAA AIP grant. Anticipating the FONSI approval of this project, the Airport submitted the initial grant programming request for this project in February 2002 for funds that would become available in Federal FY 2005.

On December 2, 2003, by Resolution No. A03-285, the Airport Board approved and authorized the design of a public improvement project to construct Runway 13R/31L and authorized the City Manager to proceed with the acquisition of properties needed for the project by purchase or gift, or to proceed to the City Council for approval to acquire by eminent domain when appropriate and needed.

FAA staff notified the Airport in separate October 6, 2004 and October 18, 2004 letters that approximately \$1 million in AIP entitlement grant funds and \$1.5 million in additional AIP discretionary funds were programmed for Runway 13R-31L land acquisition, and further recommended that the City initiate final actions necessary to have at least this much property acquired in time for the release of 2005 AIP grants. On January 6, 2004 the Airport initiated a voluntary Acquisition Program to acquire the property for replacement Runway 13R-31L by approving Resolution A04-16. To date the Airport has taken possession, negotiated settlements, or is in negotiation, with the owners of 16 residential properties. Approval of replacement Runway 13R-31L property acquisition by condemnation was recommended by the Airport Board on March 1, 2005 by Resolution A05-42 and approved by City Council on March 7, 2005 (Roll Call No. 05-541).

On February 15, 2005 FAA staff notified the Airport that they were initiating the Congressional release of funds for an FAA Airport Improvement Program grant project in a 95 percent Federal share amount of \$1,295,351.00 to initiate the first AIP grant funding of land acquisition for replacement Runway 13R-31L. The Airport Board recommended that the City Council accept this AIP grant by Resolution A05-56 on March 1, 2005. Congress released the funds on April 1, 2005 and FAA staff sent the grant offer on April 2, 2005 with a requirement that the City of Des Moines execute the grant by June 26, 2005.

In March 2005 the Airport Attorney reviewed the assurances and binding Federal legal requirements for accepting this upcoming AIP grant and determined that the only document on record from Polk County in support of the relocated Great Western Trail relocation did not constitute a binding agreement to convey the existing trail property to the City of Des Moines. This represented a legal impediment to the City of Des Moines' ability to completing the Runway 13R-31L project because Iowa Code prevents City Governments from condemning property from other governmental bodies.

At this point the Legal Department staff took the lead developing a Great Western Trail Agreement and along with Aviation and Engineering Department staff began negotiation of this Agreement with Polk County administrative and legal staff. As a part of the negotiation of this Agreement, City and Polk County staff determined that a combination of several of the alternate Great Western Trail routes that were studied in the approved Environmental Assessment would be better for all parties. This route modification required additional public hearings to meet Code of Iowa agricultural land acquisition requirements. In addition, there was a Code of Iowa agricultural land acquisition law that prevented the City from condemning agricultural land for a recreation trail even if it was part of a Federal Environmental project requirement. Due in large part to the City's legislative advocacy efforts, a change in this law was added to the Aviation Bill in the Iowa legislature that removed one of the legal impediments to City acceptance of this AIP Grant.

Engineering Department Staff requested and received an extension from the June 26, 2005 acceptance deadline to the beginning of August. The City of Des Moines must execute the grant offer at this time or lose this \$1,295,351.00 AIP grant money for this Federal fiscal year.