

35449

**COOPERATIVE SERVICE AGREEMENT**  
**Between**  
**LONG BEACH AIRPORT (COOPERATOR)**  
**And**  
**UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)**  
**ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)**  
**WILDLIFE SERVICES (WS)**

**ARTICLE 1 – PURPOSE**

The purpose of this Agreement is to conduct wildlife damage management (WDM) activities to mitigate various hazardous wildlife to reduce the potential of wildlife strikes at Long Beach Airport (LGB). Wildlife mitigation work will consist of providing technical assistance, non-lethal prior to lethal control of wildlife. The Wildlife mitigation work will assist in lowering direct, indirect, and ancillary costs as well as eliminate loss of aircraft and pilot training time. Most important it will reduce the risk of harm or injury to, or loss of aviators. LGB is a commercial service airport and is therefore governed by Title 14 Part 139 of the Code of Federal Regulations (14 CFR Part 139 – Airport Certification).

**ARTICLE 2 - AUTHORITY**

USDA-APHIS-WS has statutory authority under the Act of March 2, 1931, as amended (7 USC 426), and the Act of December 22, 1987 (7 USC 426c), the Secretary of Agriculture may conduct a program of wildlife services with respect to injurious animal species and take any action the Secretary considers necessary in conducting the program. Additionally, the Secretary of Agriculture, except for management of urban rodents, is authorized to conduct activities to manage nuisance mammals and birds and those mammal and bird species that are reservoirs for zoonotic diseases. In carrying out a program of wildlife services involving injurious and/or nuisance animal species or involving mammal and bird species that are reservoirs for zoonotic diseases, the Secretary is authorized to cooperate with States, local jurisdictions, individuals, public and private agencies, organizations, and institutions.

**ARTICLE 3 - MUTUAL RESPONSIBILITIES**

The cooperating parties mutually understand and agree to/that:

- a. Confer and plan a WDM program that addresses the need for managing conflicts caused by hazardous wildlife at (*Long Beach Airport, California*). Based on this consultation, USDA-APHIS-WS will formulate, in writing, the program work plan and associated budget and present them to the Cooperator for approval.
- b. Develop a mutually agreed upon Work and Financial Plan which are incorporated into this Agreement by reference. It is understood and agreed that any monies allocated for the purpose of this Agreement shall be expended only towards the activities and related expenses outlined therein.

- c. When either of the Cooperating parties address the media or incorporate information into reports and/or publications, both Cooperating parties must agree, in writing, to have their identities disclosed when receiving due credit related to the activities covered by this agreement.
- d. USDA-APHIS-WS has advised the Cooperator that other private sector service providers may be available to provide wildlife management services and notwithstanding these other options, Cooperator requests that USDA-APHIS-WS provide wildlife management services as stated under the terms of this Agreement.
- e. All equipment with a purchase price of \$5,000 or more per unit, purchased directly with funds from the cooperator for use solely on this project shall be subject to disposal according to USDA-APHIS policy, and shall be specifically listed in the Work and Financial Plan. Property title/disposal shall be determined when the project (including all continuations and revisions of this agreement) terminates, or when the equipment is otherwise directed to other projects, whichever comes first. If the equipment is sold prior to the project end, the proceeds should be allocated according to USDA-APHIS Policy. Continuations and revisions to this agreement shall list any equipment with a purchase price of \$5,000 or more per unit, carried over from a purchase directly with funds from the cooperator for use solely for this project. All other equipment purchased for the program is and remain the property of USDA-APHIS-WS.
- f. USDA-APHIS-WS will provide overall direction and control of the program.

#### **ARTICLE 4 - COOPERATOR RESPONSIBILITIES**

The Cooperator agrees to/that:

- a. Designate Thomas B. Modica, Acting City Manager, 4100 Donald Douglas Drive, Long Beach, CA 90808, (562) 570-2632, as the authorized representative who shall be responsible for collaboratively administering the activities conducted in this Agreement;
- b. Reimburse USDA-APHIS-WS for costs, not to exceed the annually approved amount specified in the Work and Financial Plan. If costs are projected to exceed the amount reflected in the Financial Plan, the Work and Financial Plan shall be formally revised and signed by both parties before services resulting in additional costs are performed. The Cooperator agrees to pay all costs of service submitted via an invoice within 30 days of the date of the submitted invoice or invoices as submitted by USDA-APHIS-WS. Late payments are subject to interest, penalties, and administrative charges and costs as set forth under the Debt Collection Improvement Act of 1996. If the Cooperator is delinquent in paying the full amount of the due service costs submitted by USDA-APHIS-WS, and/or is delinquent in paying the due late payments, and/or is delinquent in paying the interest, penalties, and/or administrative costs on any delinquent due service costs, USDA-APHIS-WS will immediately cease to provide the respective service associated with the submitted service costs. USDA-APHIS-WS will not reinstate or provide the respective service until all due service costs, and/or due late payments, and/or due interest, penalty, and/or administrative costs are first paid in full.
- c. To provide a Tax Identification Number or Social Security Number in compliance with the Debt Collection Improvement Act of 1996.

- d. As a condition of this Agreement, The Cooperator ensures and certifies that it is not currently debarred or suspended and is free of delinquent Federal debt.

#### **ARTICLE 5 – WS RESPONSIBILITIES**

WS agrees:

- a. To designate Dennis Orthmeyer, California State Director, 3419A Arden Way, Sacramento, CA 95825, (916) 979-2675 as the authorized representative who shall be responsible for collaboratively administering the activities conducted in this Agreement.
- b. The performance of wildlife damage management actions by USDA-APHIS-WS under this agreement is contingent upon a determination by USDA-APHIS-WS that such actions are in compliance with the National Environmental Policy Act, Endangered Species Act, and any other applicable federal statutes. USDA-APHIS-WS will not make a final decision to conduct requested wildlife damage management actions until it has made the determination of such compliance.
- c. To provide qualified personnel and other resources necessary to implement the approved WDM activities delineated in the Work and Financial Plan referenced in 3.a of this Agreement.
- d. To bill the Cooperator for costs incurred in performing WDM activities as authorized in the approved annual Work and Financial Plan as may be amended.
- e. To notify the Cooperator if costs are projected to exceed the amounts estimated and agreed upon in the Financial Plan. USDA-APHIS-WS will cease providing goods or services until a revision to the Work and Financial Plan, as appropriate, have been agreed to and signed by both parties to this Agreement.
- f. Authorized auditing representatives of the Cooperator shall be accorded reasonable opportunity to inspect the accounts and records of USDA-APHIS-WS pertaining to such claims for reimbursement to the extent permitted by Federal law and regulations.

#### **ARTICLE 6 – CONTINGENCY STATEMENT**

For costs borne by WS, this agreement is contingent upon the passage of the Agriculture, Rural Development, and Related Agencies Appropriation Act for the current fiscal year from which expenditures may be legally met and shall not obligate USDA-APHIS upon failure of Congress to so appropriate. This Agreement also may be reduced or terminated if Congress provides USDA-APHIS funds only for a finite period under a Continuing Resolution.

#### **ARTICLE 7 – NON-EXCLUSIVE SERVICE CLAUSE**

Nothing in this agreement shall prevent any other country, State government or its political subdivisions, local government, university, or college, organization, association, or individual from entering into separate agreements with USDA-APHIS-WS for same or similar activities provided under the terms of this Agreement.

### **ARTICLE 8 – CONGRESSIONAL RESTRICTIONS**

Pursuant to Section 22, Title 41, United States Code, no member of or delegate to Congress shall be admitted to any share or part of this agreement or to any benefit to arise therefrom.

### **ARTICLE 9 – APPLICABLE REGULATIONS**

All WDM activities will be conducted in accordance with applicable Federal, State, and local laws and regulations.

This agreement is not a procurement contract (31 U.S.C. 6303), nor is it considered a grant (31 U.S.C. 6304). In this agreement, APHIS provides goods or services on a cost recovery basis to nonfederal recipients.

### **ARTICLE 10 – LIABILITY**

APHIS assumes no liability for any actions or activities conducted under this agreement except to the extent the recourse or remedies are provided by Congress under the Federal Tort Claims Act (28 USC 1346(b), 2401(b), 2671-2680).

### **ARTICLE 11 – NON-DISCRIMINATION CLAUSE**

The United States Department of Agriculture prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. Not all prohibited bases apply to all programs.

### **ARTICLE 12 – FAILURE TO PAY FEES**

The cooperator is liable for fees assessed for services performed under this agreement, if applicable. APHIS will assess a late payment penalty for failure to pay fees when due. In addition, the overdue fees shall accrue interest as required by 31 U.S.C. 3717.

### **ARTICLE 13 – AGREEMENT EFFECTIVE DATE**

This Agreement shall become effective January 1, 2020 and shall continue to December 31, 2022. Further, this Agreement may be amended or extended at any time by mutual agreement of the parties in writing. The Cooperator must submit a written request to extend at least 30 days prior to expiration of the agreement. It may be terminated by either party upon 60 days' notice in writing to the other party.

**AUTHORIZATION:**

CITY OF LONG BEACH  
4100 Donald Douglas Drive  
Long Beach, CA 90808  
Tax Identification Number: [REDACTED]

Rebecca G. Garner

Thomas B. Modica, Acting City Manager

12/11/19

Date

**EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER**

UNITED STATES DEPARTMENT OF AGRICULTURE  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
WILDLIFE SERVICES  
Tax Identification Number: [REDACTED]

Dennis Orthmeyer

Dennis Orthmeyer, California State Director

12-15-19

Date

Jon Duckson

Director, Western Region

12/30/19

Date

APPROVED AS TO FORM

12-5-2019  
CHARLES PARKIN, City Attorney

By

[Signature]  
RICHARD ANTHONY  
DEPUTY CITY ATTORNEY

**WORK AND FINANCIAL PLAN  
BETWEEN  
LONG BEACH AIRPORT  
AND  
UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)  
WILDLIFE SERVICES (WS)  
January 1, 2020– December 31, 2022**

**Scope of Work:**

The purpose of this agreement is for USDA APHIS WS to provide a part time employee to provide limited wildlife mitigation to reduce the potential of wildlife strikes at Long Beach Airport (LGB). Wildlife mitigation work will consist of providing technical assistance, non-lethal prior to lethal control of wildlife. The Wildlife mitigation work will assist in lowering direct, indirect, and ancillary costs as well as eliminate loss of aircraft and pilot training time. Most important it will reduce the risk of harm or injury to, or loss of aviators. LGB is a commercial service airport and is therefore governed by Title 14 Part 139 of the Code of Federal Regulations (14 CFR Part 139 – Airport Certification).

**A. CONTACT**

For the purposes of this agreement, the Airport contact will be Karl Zittel, Airport Operations Officer, 4100 Donald Douglas Drive, Long Beach, CA 90808, (562) 570-2632, or his/her designated representative. Assistance required in the course of this agreement with obtaining access and permissions may be obtained through this individual.

**B. SPECIFIC REQUIREMENTS**

USDA-APHIS-WS will provide a part time qualified Wildlife Biologist to LGB as detailed below.

- a. Provide technical assistance to airport staff as needed or required regarding wildlife mitigation abatement activities, including ongoing compliance with relevant Federal, State and local laws and regulations. Wildlife Biologist will train Airport staff in hazing, wildlife identification, and bird strike notification procedures.
- b. Provide data and assist in preparation of the Airport's USFWS depredation permit report and application.
- c. Coordinate and chair Long Beach Bird Hazard Working Group.
- d. Provide monthly reports to Airport.
- e. Conduct wildlife monitoring surveys in support of existing Wildlife Hazard Assessment.
- f. Assist in the maintenance of the Wildlife Hazard Management Plan.

- g. USDA-APHIS-WS shall provide all equipment (except badges and airfield communication equipment) necessary for wildlife control at the Airport, including vehicles, pyrotechnic supplies, ammunition, firearms, and trapping equipment.
- h. Respond to wildlife strike incidents during working hours and provide removal services and document the strike report in accordance with applicable regulatory requirements.

### C. DATA AND PUBLICATIONS

These data will not be used, in part or in whole, in any professional, scientific or non-scientific report, paper or note, published or unpublished or be part of any technical or non-technical presentation or be provided to anyone not a party to this agreement without the prior concurrence of WS and Long Beach Airport.

### D. RELEASE OF PUBLIC INFORMATION

WS shall not respond to any inquiries about this agreement from the news media or non-governmental organizations or other persons during the term of this agreement unless it has first consulted with the Long Beach Airport and a determination has been made that the California Public Records Act, California Government Code §6250, et seq., is applicable, and no exemption exists under the federal Freedom of Information Act or other federal or state law or regulation, which would exempt the records from disclosure under the Government Code, including, but not limited to §6254 .

### E. DELIVERABLES

#### 1. Meetings

APHIS WS biologist will request and attend scheduled meetings to ensure the coordination of activities during this agreement. WS will coordinate and chair LGB Bird Hazard Working Group.

#### 2. Monthly Reports – WS shall submit a monthly report within 30 days of the previous month's end.

Monthly Reports shall include a minimum of the following:

- 1) Project Title
- 2) Date of report.
- 3) Brief summary (as appropriate) of :
  - i. Methods and Materials
  - ii. Summary of Data Collected and control activities including the species and number of wildlife observed and taken
  - iii. Any reported
  - iv. Problems encountered that should be resolved
  - v. Recommendations

3. Limited Operational Wildlife Mitigation

- 1) WS will provide technical service, nonlethal and lethal wildlife mitigation, primarily through trap and relocation services.
- 2) WS will provide training FAA required to airport staff at regional meetings throughout the year

**General Requirements**

**A. Permits and Laws**

All necessary state and federal permits will be requested by the Airport, with assistance from Wildlife Services.

All work conducted in support of this agreement will comply with all federal and local laws applicable to Long Beach Airport such as the Endangered Species Act and the Migratory Bird Treaty Act.

**B. Passes and Badges**

Wildlife Services will coordinate with the Airport contact as designated below to ensure that assigned Wildlife Services personnel are cleared to work and badged to work on the installation.

Wildlife Services shall coordinate with Air Traffic Control, Air Operations, and the Airport Manager-On-Duty to gain access, permissions, and the appropriate equipment and training to be on and around the airfield. Advice and details on coordination with these personnel and departments can be obtained from the installation contact.

All Wildlife Services vehicles shall be marked and equipped in accordance with FAA requirements for vehicles operated on the movement area of a certificated Airport under FAR 139 and the appropriate Advisory Circulars.

**C. Necessary Qualifications**

The Wildlife Biologist provided by USDA Wildlife Services under this Agreement shall have the following minimum qualifications:

1. Experience to meet the qualifications of a GS-0486 series wildlife biologist as defined by the U.S. Office of Personnel Management classification standards **and,**

Have taken or scheduled to take, and passed an airport wildlife hazard management training course acceptable to the FAA Administrator and, meet the qualifications as defined by the FAA for a Wildlife Biologist as defined by AC 150/5200-36 and any subsequent revisions to the applicable regulations.

**Schedule and Financial Plan:**

This agreement is effective upon signature of both parties and acceptance of funds by USDA APHIS WS.



1. Work to be performed under the terms of this agreement shall be initiated on no later than thirty (30) days after award of contract and hiring of personnel.
  
2. WS will provide a part time wildlife Biologist to conduct wildlife mitigation at Long Beach Airport. This biologist's time is shared (50%/50%) with another local airport. Long Beach Airport share of 50%.

**FINANCIAL PLAN**  
**PERIOD OF PERFORMANCE**  
**1/1/20-12/31/20**

Cost Element	Full Cost	
Personnel Compensation	\$	40,971.96
Travel	\$	1,422.00
Vehicles	\$	5,822.40
Other Services	\$	500.00
Supplies and Materials	\$	3,000.00
Equipment	\$	499.92
Subtotal (Direct Charges)	\$	52,216.28
Pooled Job Costs	11.00%	\$ 5,743.79
Indirect Costs	16.15%	\$ 8,432.93
Aviation Flat Rate Collection		\$ -
Agreement Total	\$	66,393.00

**FINANCIAL PLAN**  
**PERIOD OF PERFORMANCE**  
**1/1/21-12/31/21**

Cost Element	Full Cost	
Personnel Compensation	\$	43,583.94
Travel	\$	1,422.00
Vehicles	\$	5,822.40
Other Services	\$	500.00
Supplies and Materials	\$	3,000.00
Equipment	\$	499.81
Subtotal (Direct Charges)	\$	54,828.15
Pooled Job Costs	11.00%	\$ 6,031.10
Indirect Costs	16.15%	\$ 8,854.75
Aviation Flat Rate Collection		\$ -
Agreement Total	\$	69,714.00

**FINANCIAL PLAN**  
**PERIOD OF PERFORMANCE**  
**1/1/22-12/31/22**

Cost Element	Full Cost	
Personnel Compensation	\$	45,826.56
Travel	\$	1,422.00
Vehicles	\$	5,822.40
Other Services	\$	500.00
Supplies and Materials	\$	3,000.00
Equipment	\$	499.43
Subtotal (Direct Charges)	\$	57,070.39
Pooled Job Costs	11.00%	\$ 6,277.74
Indirect Costs	16.15%	\$ 9,216.87
Aviation Flat Rate Collection		\$ -
Agreement Total	\$	72,565.00

USDA-APHIS-WS will submit quarterly invoices to the Long Beach Airport for services rendered in performing wildlife damage management activities for the period of January 1, 2020 through December 31, 2022.

USDA-APHIS-WS and the Cooperator agree to discuss annually the progress of the agreement and any future requirements. Necessary changes to funding or the scope of this project shall be written and signed by appropriate officials by an amendment to this agreement.

In accordance with the Debt Collection Improvement Act (DCIA) of 1996, bills issued by WS are due and payable within 30 days of receipt.

The DCIA requires that all debts older than 120 days be forwarded to debt collection centers or commercial collection agencies for more aggressive action. Debtors have the option to verify, challenge and compromise claims, and have access to administrative appeals procedures which are both reasonable and protect the interests of the United States.

AUTHORIZATION:

CITY OF LONG BEACH  
ATTN: Thomas B. Modica  
Acting City Manager  
4100 Donald Douglas Drive  
Long Beach, CA 90808  
Tax Identification Number: [REDACTED]

Rebecca G. Garner  
Thomas B. Modica, Acting City Manager

12/3/19  
Date

**EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER**

APPROVED AS TO FORM:

By \_\_\_\_\_

Date \_\_\_\_\_

UNITED STATES DEPARTMENT OF AGRICULTURE  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
WILDLIFE SERVICES  
Tax Identification Number: [REDACTED]

[Signature]  
Dennis Orthmeyer, California State Director

12-19-19  
Date

[Signature]  
Director, Western Region

12/30/19  
Date

APPROVED AS TO FORM

11-26-2019  
CHARLES PARKIN, City Attorney

By [Signature]  
RICHARD ANTHONY  
DEPUTY CITY ATTORNEY