Federal Aviation Administration

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To: Regional Airports Division Directors and Regional Compliance Specialists

From: Michael Helvey, Director, Office of Airport Compliance and Management Analysis, ACO-1

Subject: Compliance Guidance Letter 2025-02, FAA Guidance Regarding the Use of Airport Revenue for Airport Ground Access Projects

I. Purpose

This Compliance Guidance Letter (CGL) establishes the Federal Aviation Administration (FAA) policy for the use of airport revenue on airport ground access projects, which can include road, public transit, and rail lines located on and off airport property. It also provides a listing of previous ground access projects for which the FAA allowed and disallowed the use of airport revenue.

II. Statutory Requirements

A. The Airport Improvement Program (AIP) was originally enacted by Congress as the Airport and Airway Improvement Act (AAIA) of 1982 and places airport revenue use restrictions on sponsors, subsequently codified at 49 U.S.C. § 47107(b), and further expanded in 49 U.S.C. § 47133. The law requires airport sponsors to ensure that all revenue generated by an airport is expended for the capital or operating costs of the airport, the local airport system, or other local facilities directly and substantially related to the actual air transportation of passengers or cargo.

B. FAA Order 5190.6, *Airport Compliance Manual*, Chapter 15, Section 15.9.j.

C. *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use Policy) Federal Register, Vol. 64, No. 30, Feb 16, 1999.

III. Policy Requirements

Airport Revenue

Sponsors may use their airport revenue for the capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

The term "directly and substantially related to the air transportation of passengers," as applied to a ground access project, means that the project is intended primarily for the use of airport passengers (also airport employees and airport visitors), *i.e.*, it is designed and constructed for ground transportation to the airport.

Rail/Transit

Consistent with the Revenue Use Policy, a sponsor may use airport revenue to pay for the airport's share of a ground access project in two general cases: (1) if the project qualifies as an integral part of an airport capital project, and (2) if the project is owned or operated by the sponsor and is directly and substantially related to the air transportation of passengers or property. (49 U.S.C. § 47107(b).)

1. An example of an airport capital project is the construction of an airport transit station incorporated into a new airport passenger terminal to provide direct transit access to the airport terminal building. The station is designed and intended exclusively for airport ground access and is effectively part of the terminal building.

2. A facility may extend beyond airport property or serve non-airport users if it is owned and operated by the sponsor and directly and substantially related to air transportation.

- **a.** The facility must be owned and operated by the sponsor.
- **b.** It must be designed and intended for airport use, even if others will also use it. Airport funding is limited to the portion (rail or transit line) that connects the airport to the nearest mass transit line, typically located adjacent to or near the airport boundary.

3. An airport contribution can be prorated to the forecasted use of the facility.

- **a.** If 50% of the passengers on a transit line with a stop at the airport are airport passengers, then the airport can contribute up to 50% of the cost of the rail line across airport property. If airport use is below 50%, this identifies that the transit line is substantially for use that is not airport related, and therefore, in most cases, airport revenue cannot be used.
- **b.** For example, when transit lines are designed to run through airport property to

provide service to an airport station, the FAA has approved the use of airport revenue for 100% of the costs. This includes 100% of the actual costs incurred for structures and equipment associated with the airport terminal building station, as well as for a portion of the costs of the rail line through the airport, prorated for the percentage of airport passengers using the system in relation to total transit passengers using that segment of the line.

4. In summary, Airports may not use revenues to fund portions of the project that do not serve airport passengers. When portions of the project will serve both airport and non-airport passengers, funding must be prorated to reflect the projected share of use by airport passengers. Airport funds used for the project cannot exceed the projected percentage of total project costs corresponding to use by airport passengers. Ultimately, the permissibility of using airport revenue for a ground access project is determined on a case-by-case basis.

IV. Examples of Previous Allowable Uses of Airport Revenue

San Francisco Bay Area Rapid Transit (BART)

The FAA approved the use of airport revenues to pay for the actual costs incurred for structures and equipment associated with an airport terminal building station and a rail connector between the airport station and the BART line. Structures and equipment were located entirely on airport property and were designed and intended exclusively for the use of airport passengers.

- The BART extension was intended for the exclusive use of people traveling to or from the airport and included design features to discourage use by through-passengers.
- Based upon these considerations, the FAA determined that the possibility of incidental use by non-airport passengers did not prevent airport revenues from being used to finance 100% of the otherwise eligible cost items.
- The FAA considered "airport passengers" to include airport visitors, meet-and-greeters, and employees working at the airport.

Portland Airport MAX

The FAA approved the airport's long-term, no cash lease of 120 acres of airport property to Cascade Station Development Corporation in exchange for the development corporation's design and construction of one segment at no cost to the Airport Metropolitan Area Express (Airport MAX) light rail system Portland International Center (PIC segment) as being consistent with revenue use and self- sustaining requirements.

- PIC - 458 acres of airport property used as a business park and acquired with Federal grant funds.
- The FAA reviewed the sufficiency of the value obtained for the long-term lease of

airport property and to what extent airport revenue (in effect, the value obtained for the lease of the property) could be used for the project.

- The FAA found the PIC segment directly and substantially related to air transportation of passengers or property based on the projection that 65% of the ridership of the segment would be going to or from the airport.

Minneapolis Hiawatha Corridor Light Rail System

In 2000, the FAA approved the use of airport revenue for the construction of two rail stations at Minneapolis-St. Paul International Airport is part of the Hiawatha light rail system.

- The two stations were located within the existing airport boundaries and integrated into the airport's terminals. The stations serve significant numbers of daily airport passengers and provide additional intermodal transportation-related benefits, including the eventual elimination of shuttle bus service and reduced congestion on airport roadways.

- The FAA concluded that airport revenue could be used to fund a prorated portion of the project located on airport property, based on the projected passenger use for access to the airport as a percent of total riders using the light rail system within the airport, even though the light rail system also served non-airport passengers between the downtown Minneapolis area and the Mall of America.

Road Construction and Maintenance

Airport revenues may not be used on road construction and maintenance that does not directly support the operation of the airport.[1] In some cases, airport revenue may be used to pay for a proportional share of public and airport roadways providing direct ground access to the airport that are located on airport property or reasonably adjacent areas that lead directly into airport facilities. Roads built on and through airport property may also be eligible.

A proportional share that applies to airport traffic could be determined by origin/destination traffic studies or other approved metrics. The percentages of airport related use below 50% identify that the roads are substantially for vehicular traffic that is not airport-related, therefore, no airport revenue can be used.

City streets and local highways may be used by passengers on the way to the airport, but they are not designed or intended for airport access and are not directly and substantially related to air transportation, and are generally funded with State and local funds, and therefore airport revenue cannot be used.

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[1] **Federal Register** /Vol. 64, No. 30 /Tuesday, February 16, 1999, pg. 7721

V. Examples of Previous Allowable and Disallowable Uses of Airport Revenue

Port Authority of New York and New Jersey (PANYNJ)

PANYNJ made payments to or on behalf of other parties to support improvements to a non-aviation PANYNJ facility, including work performed off-site, provided the off-site location is reasonably adjacent to the facility being improved.

The FAA allows payments for property interests other than fee ownership (i.e., easements) to facilitate access to Port Authority facilities. This could include highway ramps leading to PANYNJ owned and operated facilities, which are exclusively accessed by PANYNJ customers and are located on PANYNJ property.

Denver International Airport (DEN) - Peña Boulevard

Expansion of Peña Boulevard

At the time DEN was built, it was necessary for the airport to also build and maintain Peña Boulevard due to DEN's remote location. The purpose of Peña Boulevard was solely for airport traffic, and therefore, the cost of building and maintaining the boulevard was appropriately paid through airport revenue.

Since that time, the area around DEN has grown significantly, and the traffic on Peña Boulevard is no longer exclusively airport related. As indicated by DEN's Peña Boulevard Corridor Analysis, the percentage of traffic on Peña Boulevard that is airport related has decreased and will continue to decrease for certain sections of Peña Boulevard. Therefore, because the current expansion of Peña Boulevard was not necessitated by airport development, the FAA did not allow the use of airport revenue for expansion.

Maintenance of Peña Boulevard

It was determined that the only section of Peña Boulevard that will continue to be used by 100% of airport traffic is East of E-470. The percentage of airport related traffic on the other sections of Peña Boulevard ranges from a 2005 level of 59% to 77% airport traffic and a 2030 forecast of 38% to 66% airport traffic.

Given that Peña Boulevard is and will continue to be used by a significant amount of non-airport related traffic, the FAA asked DEN to find an avenue for ensuring that airport revenue is only used to pay the airport's proportionate share of the maintenance of Peña Boulevard. The FAA recommended a traffic study to determine a prorated share of airport and surrounding community usage and assess each entity for maintenance. The FAA also recommended a toll system to fund the maintenance.

Massport Acquisition of Roadways – 2010

The FAA determined allowable costs based on the Massport roadway acquisitions that lie on airport owned property.

- SR-10 is a new airport road that exclusively serves Logan International Airport without the necessity of additional traffic through the terminal areas to cause unnecessary congestion. Consequently, airport revenue was used to acquire this roadway.

- Massport acquired the side entrance to the Ted Williams Tunnel for the South Cargo tenants and East Boston through Maverick Street. The FAA was satisfied that the use would be primarily by airport users. Therefore, airport revenue may be used to satisfy the acquisition of this entrance.

Los Angeles International Airport (LAX) – Century Boulevard Corridor

LAX vehicles, such as the buses that ferry passengers from Airport Lot B to the LAX Terminals, can be considered a part of the ground access infrastructure of LAX. As such, airport revenue was used to repair and rehabilitate Century Boulevard between Sepulveda and La Cienega Boulevards (Corridor), including the streets and alleys within 750 feet of the Century Boulevard Corridor.

The FAA asked LAX to provide a graphical layout of the roadway corridors in relation to the LAX property line and prorate the costs of the proposed work in relation to the percentage of airport ground access traffic.