



Federal Aviation Administration

Memorandum

Date: July 28, 2021

To: Regional Directors
Regional Compliance Specialists **KEVIN WILLIS** Digitally signed by KEVIN WILLIS
Date: 2021.07.28 07:35:27 -04'00'

From: Kevin C. Willis, Director, Office of Airport Compliance and Management
Analysis (ACO-1) X78741

Subject: ACTION: Compliance Guidance Letter 2021-1 – Guidance for Transfer of
Federally Obligated Airports

I. INTRODUCTION

This Compliance Guidance Letter (CGL) provides guidance to FAA Office of Airports personnel for accepting, reviewing, and making determinations regarding the transfer of a federally obligated airport to a new eligible airport sponsor. Airport transfers result from a transfer of federal obligations from the current airport sponsor to a new eligible airport sponsor or a change in governance structure. This CGL discusses general principles, explanation of terms, statutory and regulatory requirements, and the procedures sponsors and the FAA must follow.¹ Attachment A to this CGL provides a list of frequently asked questions and answers on airport transfers.

II. GENERAL PRINCIPLES

The FAA has a statutory obligation to ensure that an airport sponsor (1) is capable of assuming all grant assurances and other federal obligations; and (2) is legally and financially able to

¹ This CGL does not apply to transfers under the *Airport Investment Partnership Program* (AIPP), 49 U.S.C. § 47134. The AIPP has statutorily based application procedures under which a public sponsor may sell or lease a general aviation airport or lease any other type of airport to a person other than a public agency. See https://www.faa.gov/airports/airport_compliance/privatization/

assume and carry out its obligations as sponsor and operator to maintain and operate the airport as a public-use airport in a safe manner according to FAA regulations and standards.²

Accordingly, before a transfer to another public entity can take place, the FAA must review and specifically determine that the new airport sponsor is eligible, willing, and able to perform all the obligations of existing grant agreements and federal property conveyances. If not, the FAA will not permit the transfer to occur.

The FAA's review must confirm that the proposed new airport sponsor is legally, financially, and otherwise able to assume and carry out the certifications, representations, warranties, grant assurances, covenants and other obligations required in the Airport Improvement Plan (AIP) project application and grant agreements and federal land conveyances. The proposed new sponsor must show they have the authority to act as a sponsor. An opinion of the proposed sponsor's attorney, attesting to the legal authority of the proposed sponsor to act and carry out its responsibilities under the grant agreement, is required.³

Generally, the FAA recommends that a sponsor, or public entity considering the creation of an airport authority, or a legislative enactment effecting a change of airport governance, solicit comments from the FAA on draft legislation prior to enactment.

The FAA may require clarification from the state attorney general when questions arise regarding state enabling legislation that pertains to the operation of the airport, or where there is a lack of clarity regarding an airport sponsor's responsibility for the federal obligations. The FAA typically requests the sponsor's attorney or, as appropriate, the state attorney general to provide a legal opinion regarding the proposed new sponsor's authority to act as a sponsor and carry out required federal obligations.

As a condition of the release of the existing sponsor obligations, the FAA requires the new sponsor to assume all existing grant obligations and federal land conveyance obligations. The FAA will review transfer documents to ensure clarity regarding the assignment of responsibility for the federal obligations. In some instances, it may be appropriate to continue the existing sponsor's obligations in effect, in full or in part, especially where the existing sponsor is the only local government entity that could assure compliance.

When a state or local government proposes a change in the governance of an airport, the existing sponsor, and proposed sponsor, must concur that the transfer is consistent with federal and state law to the satisfaction of the FAA. In situations where the existing sponsor opposes the attempt to transfer sponsorship or control to another entity, and a legal dispute is pending, the FAA will refrain from evaluating a transfer request until the legal dispute is resolved, or the transfer's proponent demonstrates the transfer is consistent with federal and state law.⁴

² See, e.g., the Federal Aviation Act of 1958, as amended and recodified, Title 49 U.S.C. §§ 40101, 40113, 40114, 46101, 46104, 46105, 46106, 46110; and the Airport and Airway Improvement Act of 1982, as amended and recodified, Title 49 U.S.C. §§ 47105(d), 47106(d), 47107(k), 47107(l), 47111(d), 47122.

³ See, *Airport Compliance Manual*, Order 5190.6B and *Airport Improvement Program Handbook*, Order 5100.38D

⁴ See, *Notice of Policy on Evaluating Disputed Changes of Sponsorship at Federally Obligated Airports*
<https://www.govinfo.gov/content/pkg/FR-2016-06-06/pdf/2016-13177.pdf>

III. EXPLANATION OF TERMS USED

Assignment and Assumption Agreement – An agreement between the existing sponsor and the new sponsor for the assignment of existing grants, federal grant obligations, federal land conveyances, and personal property, and the assumption by the new sponsor of these rights and obligations. The agreement can also detail the disposition and status of transferred grants. (See Attachment B for Sample Assignment Assumption Agreement)

Enabling Legislation - The public agency's enabling legislation or act that gives it the authority to operate and own the airport(s), and may include, but is not limited to the:

- Right to acquire, operate, develop, and regulate airports;
- Right to acquire property for airport purposes, including by eminent domain;
- Police power and other authority to regulate airports;
- Right to enter into federal agreements;
- Zoning authority, including land use, noise regulation, and control over airport hazards; and
- Authority to generate revenue and incur debt, including issuing bonds.

Federally Obligated Airport Property - Obligated property identified on an airport's Exhibit "A" property map. This includes airside property, property donated by the sponsor, property purchased with federal funds including Airport Development Aid Program (ADAP), Federal Aid to Airports Program (FAAP), AIP funds, Passenger Facility Charges (PFC) funded property, property granted to the airport under the Surplus Property Act of 1944, as amended, and other statutes including 49 U.S.C § 47125 and its predecessors,⁵ and all federally acquired property. An airport sponsor has a federal obligation to submit an up-to-date Exhibit "A", Airport Property Map, when applying for and prior to execution of certain federal grants.

The Exhibit "A" is a snapshot of the inventory of parcels that make up dedicated airport property and indicates how the land was acquired, the funding source for the land, and if the land was conveyed as federal surplus property, or federal non-surplus property. Other detached parcels owned by the airport sponsor that are dedicated to airport purposes must also be shown on the Exhibit "A".

All land described in an AIP application and shown on an Exhibit "A" constitutes the airport property for compliance under the terms and covenants of a grant agreement. The FAA views an Exhibit "A" as an appropriate tool, together with a current attorney's title opinion, to assist in determining whether a sponsor has demonstrated satisfactory evidence of good title.

⁵ These include federal non-surplus property conveyed under Section 16 of the 1946 Airport Act, as amended; Section 23 of the 1970 Airport Act, as amended; and Section 516 of the Airport and Airway Improvement Act of 1982, as amended.

Political Subdivision - A division of a state that exists primarily to discharge some function of local government. (*Black's Law Dictionary*, 1827 (11th ed. 2019). The term ordinarily includes a county, municipality city, town, village, or port authority. A public agency includes a state or a political subdivision of a state, and may be an eligible airport sponsor. (See 49 U.S.C. § 47102 (20)-(26))

IV. STATUTORY AND REGULATORY REQUIREMENTS AND RESOURCES

49 U.S.C. § 44706. *Airport Operating Certificates*

49 U.S.C. § 47102. *Definitions*

49 U.S.C. § 47106(a) (3) (5) and (b) (1) *AIP Project Grant Application Approval Conditioned on Satisfaction of Project Requirements*

49 U.S.C. § 47107(a) (b) *AIP Project Grant Application Approval Conditioned on Assurances About Airport Operations*

Airport Improvement Program Grant Assurances
http://www.faa.gov/airports/aip/grant_assurances/

FAA Order 5190.6B, *FAA Airport Compliance Manual*, Chapter 6, *Rights and Powers and Good Title*
http://www.faa.gov/airports/resources/publications/orders/compliance_5190_6/media/5190_6b.pdf

Notice of Policy on Evaluating Disputed Changes of Sponsorship at Federally Obligated Airports, 81 FR 36144, June 6, 2016 <https://www.govinfo.gov/content/pkg/FR-2016-06-06/pdf/2016-13177.pdf>

FAA Order 5100.38D, *Airport Improvement Program Handbook*, Chapter 2, *Who can get a Grant?* http://www.faa.gov/airports/aip/aip_handbook

ACRP Legal Research Digest 7, *Airport Governance and Ownership*, August 2009
<http://www.trb.org/Publications/Blurbs/162331.aspx>

V. AIRPORT GOVERNANCE

The sponsor determines the management and organizational structure of an airport. The type of structure employed can vary depending on whether the sponsor delegates all or some of its management responsibilities to a third party.

If a sponsor arranges for a third party to manage the airport, it must retain sufficient rights, powers and authority to assure that the third-party manager operates and maintains the airport in accordance with the federal obligations and the sponsor's grant agreement. The sponsor is not relieved of its responsibility under the grant assurances by such an arrangement.

VI. SUMMARY AND DEFINITIONS PROCESS

It is advisable that both the existing and proposed sponsor work together to prepare the application.

For general aviation and non-reliever airport transfers, the Region/ADO leads the review of the submitted documents, and notifies ACO and Airport Planning and Programming (APP-520) about the request for a transfer. Once the Region/ADO completes its review, the Region/ADO provides the initial decision and completed package to ACO for final review and concurrence.

For all other airports, ACO will take the lead, in coordination with the Region/ADO, to review the submitted documents, decide whether to concur with the transfer, and, if approved, provide the completed approval package to the Regional Director. ACO will notify APP-520 about the pending transfer and will confer with the Office of the Chief Counsel throughout the process for these transfers.

Airports Regional Offices (Region) and Airports District Offices (ADO) are charged with the responsibility of ensuring airport sponsors can fulfill their federal obligations at all times. Therefore, the Regional Directors will sign the final approval letters for all transfers.

The FAA should provide the proposed sponsor the "APP-520 Transfer Checklist." (See Attachment C.)

Summary of FAA's Review for Compliance with Grant Assurances

The FAA must make a determination on the eligibility of the sponsor. While airport governance is a local decision, any request to transfer airport sponsorship from one entity to another, requires an evaluation of whether the new entity has the legal authority to act as a sponsor. When state and local governments propose a change in the airport governance structure, the transfer's proponent must demonstrate the transfer is consistent with state and federal law. The review of sponsor eligibility includes ensuring there is no ambiguity regarding the responsibility for the federal obligations. In some instances, it may be appropriate to continue the existing sponsor's obligations in effect, in full or in part.

The FAA's review will confirm that the sponsor is legally, financially, and otherwise able to assume and carry out the certifications, representations, warranties, assurances, covenants and other obligations required of sponsors. The proposed new sponsor must show that they have the legal authority to act as a sponsor. An opinion of the sponsor's attorney as to its legal authority to act as a sponsor and carry out its responsibilities under the grant agreement is generally required.⁶

⁶ See Airport Compliance Manual, Order 5190.6B and Airport Improvement Program Handbook, Order 5100.38D.

The FAA recommends that a sponsor or state authority, which is considering the creation of an airport authority or legislative enactment effecting a change of airport governance, solicit comments from the FAA on the draft legislation prior to enactment. The FAA may also require clarification from the state's attorney general when questions arise regarding state legislation enacted that pertains to airport sponsorship, or where there is ambiguity regarding the responsibility for the federal obligations.

All airport transfers and leases for the entire airport property must be recorded in FAA Order 5190.2R, *List of Public Airports Affected by Agreements with the Federal Government*.

Airport Operating Certificate

Part 139 Application for Certificate (FAA Form 5280-1) must be submitted along with all applicable amendments to the Airport Certification Manual (ACM). Changes to staffing, personnel and operational procedures will require additional time and assessment; however, certification of the new sponsor is generally a simple process if the airport already holds a Part 139 Certificate. **Certificates are not transferable.** A new sponsor must apply for the certificate, and FAA must issue the Certificate at the time of the transfer in order to maintain uninterrupted service. The FAA will not release a sponsor from obligations that occurred prior to the transfer, such as revenue diversion.

Method of Transfer

An airport can be transferred to another public agency by a fee simple title or through a lease arrangement. There are two types of lease arrangements: the first type is when the lease term is undefined or open-ended; the second type is when the lease term is defined. The defined lease term should always exceed the useful life of the sponsor's federal obligations. The transferring public agency should reserve a residual obligation and right to assume responsibility for the airport in the event of default under the lease.

Co-Sponsorship Agreement

Any two or more public agencies desiring to jointly manage and operate an airport may request a co-sponsor arrangement. The ADO will review the arrangement to determine whether the public agencies either independently or jointly meet the sponsorship requirements.

The public agencies need to show they are either jointly or severally legally and financially fit, and otherwise able to assume and carry out the certifications, representations, warranties, assurances, covenants and other obligations required of sponsors which are contained in the AIP project application and grant agreement forms.

The terms and conditions of the grant agreement will individually, jointly and severally bind co-sponsors unless their respective rights and obligations with respect to management, operation

and development of the airport are set forth in a written agreement. An executed copy of the written agreement must be on file with the local ADO. The agreement shall, as a minimum, set forth:

1. The responsibilities of each cosponsor to the other(s) with respect to the accomplishment of the proposed development, operation, and maintenance of the airport;
2. The obligations which each will assume to the United States; and
3. The names of the sponsor or sponsors who will accept receipt of and disburse grant payments.

Disputed Transfers

In situations where the existing sponsor opposes the attempt to transfer sponsorship to another entity and a legal dispute is pending, the FAA will refrain from evaluating a transfer request regarding the control of the airport. The FAA will not consider the transfer request until the current sponsor agrees to the transfer, the legal dispute is resolved, or the proponents of the transfer demonstrate that the transfer is consistent with state and federal law. See *Notice of Policy on Evaluating Disputed Changes of Sponsorship at Federally Obligated Airports*, 81 FR 36144, June 6, 2016.

Transfers of Privately Owned Public-Use Airports under 49 U.S.C. Section 47133

Privately owned public-use airports receiving federal assistance are bound by many of the same laws, regulations, and grant assurances that govern publicly owned airports. Consequently, privately owned airports receiving federal assistance generally are not transferred to another entity. The FAA's *Policy and Procedures Concerning the Use of Airport Revenue*, (64 FR 7696, February 16, 1999) (Revenue Use Policy) imposes restrictions on the proceeds from the sale of airport property. However, there is an exception under federal law that permits a private sponsor to be compensated for the sale of a privately owned public use airport to a public agency. Under 49 U.S.C. § 47133(b)(2), a private airport sponsor can sell the airport to a public agency, and if certain conditions are met, including grants fund reimbursement, the private owner can retain a portion of the sales proceeds without restriction.

Relatedly, the ACO will review the stock sale of the corporate entity managing a privately owned public-use airport to confirm there is no change to the airport sponsor. Such request should be submitted directly to ACO.

Grant Assurances

The FAA, as part of its review of the proposed sponsor's application, will determine if the proposed sponsor can satisfy the requirements of these enduring grant assurances. The FAA will also determine if existing sponsor's practices are consistent with its grant obligations. In cases where corrective action is required, the FAA will bring it to the attention of both parties. Grant

assurances directly related to the federal funding of airport development projects will be addressed in the grant application process.

- **Assurance 3, Sponsor Fund Availability** – The review will confirm whether the sponsor has sufficient funds available to assure operation and maintenance of airport related costs not funded by the Federal Government.
- **Assurance 4, Good Title** - The review will confirm whether the sponsor has good title or it will be acquired satisfactory to the FAA. The sponsor, a public agency, or the Federal Government must hold good title to the areas of the airport used or intended to be used for the landing, taking off, or surface maneuvering of aircraft, or good title will be acquired. A good title is a marketable title, free and clear of all liens and encumbrances (except those specified and usually agreed to by the government in advance). If the sponsor is acquiring land in the project, a property inventory map (Exhibit A) should be updated unless it is part of the approved airport layout plan.
- **Assurance 5, Preserving Rights and Powers** - The review will confirm whether the sponsor has not surrendered by contract its capability to control the airport and to carry out its commitments to the Federal Government. The sponsor assures that it will not take an action that would operate to deprive it of any of the rights and powers necessary to perform its federal obligations without the written approval of the FAA. The FAA is looking to identify any terms and conditions of the arrangement which could prevent the realization of the full benefits for which the airport was constructed, or which could develop into a restriction on the new owner's ability to meet its obligations to the Federal Government.

Any lease or agreement granting the right to serve the public on the premises of an airport so obligated should be subordinate to the authority of the owner to establish sufficient control over the operation to guarantee that airport users will be treated fairly.

- **Assurance 19, Operations and Maintenance** – The review will confirm whether the sponsor will operate the airport in a safe and serviceable condition in accordance with minimum standards or as required by Federal, State and local agencies governing maintenance and operations. This includes operating and maintaining all facilities with due regard to climatic and flood conditions, maintain a program of regular airport inspections, and a plan for notifying airmen of any condition affecting the aeronautical use of the airport, and that the sponsor will request FAA's approval to close the airport for nonaeronautical activity.
- **Assurance 20, Hazard Removal and Mitigation** – The review will confirm whether the sponsor has a program to mitigate existing airport hazards and prevent the establishment or creation of future airport hazards.
- **Assurance 21, Compatible Land Use** – The review will confirm that the sponsor 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.

- **Assurance 22, Economic Non-Discrimination** The review will confirm whether the sponsor 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.
- **Assurance 23, Exclusive Rights** –The review will confirm that no an exclusive right exists or will exist for the use of the airport to provide aeronautical services to the public.
- **Assurance 24, Fee and Rental Structure** - The review looks to ensure that the sponsor maintains a fee and rental structure for facilities and services that will make the airport as self-sustaining as possible, in accordance with 49 U.S.C. § 47107(a)(13).
- **Assurance 25, Airport Revenue** – The review will confirm whether airport revenue is used for the capital and operating cost of the airport and that all airport revenue will be transferred to the new sponsor. (See Revenue Use Policy.)
- **Assurance 29, Airport Layout Plan** – The review will confirm whether, subject to Public Law 115-254, Section 163, the sponsor will keep up to date at all times an airport layout plan.
- **Assurance 30, Civil Rights** – The review will confirm whether the sponsor takes 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, federal financial assistance to the airport.

Documents required for FAA review and approval:

- Public Agency's enabling legislation or act that gives it the authority to operate and own the airport(s);
- A copy of the executed or draft Operation and Management Agreement for the specific airport, if another party conducts operation and management of airport;
- Proof of Good Title, including copy of executed deed and tract information
 - Attorney assurance by letter to the FAA that any title issue is being cured if there are parcels for which good title cannot be confirmed;
- An executed copy of the Assignment and Assumption Agreement, including list of transferred grants if new sponsor purchased airport from a previous FAA Sponsor;
- Document wherein the new sponsor must agree to assume all existing federal obligations
 - Prior sponsor will not be released from its obligations not assumed by the new sponsor - in some circumstances, the prior sponsor is not fully released from the obligations

- Public Agency's attorney legal certification that the new airport sponsor meets the legal requirements to carry out the certifications, representations, warranties, assurances, covenants and other obligations required of sponsors which are contained in the AIP project application and grant agreement forms. Applicant's audited financial statements for the most recent fiscal year end
 - May include review of prior Payment in Lieu of Taxes (PILOT)
- Exhibit A Map, Airport Layout Plan and Land Inventory map identifying grant acquired land
- Approval of other government agencies if applicable
 - As a rule, the name of the approving agency and date of approval will be sufficient.
 - When a state law requires channeling through a state aeronautics commission, the approval of that commission must be indicated by endorsement or by other means, which the commission may want to use
- Part 139 Application for Certificate, amendments to Airport Certification Manual (ACM)/Airport Certification Specifications (ACS) if applicable
 - Certification of the new sponsor is generally a simple process if the airport already holds a Part 139 Certificate.
 - Part 139 Certificates are not transferable
 - A new sponsor must apply for the Certificate, and FAA must issue the Certificate at the time of the transfer in order to maintain uninterrupted service
 - FAA will not release a sponsor from obligations that occurred prior to the transfer such as revenue diversion
- Transportation Security Administration approval and updated security manual, if applicable
- Documentation required pursuant to the *National Environmental Policy Act of 1970* (42 U.S.C. §§ 4321-4347) (NEPA), the Council of Environmental Quality Regulations for the implementation of NEPA (40 CFR 1500-1508), and applicable Department of Transportation and Federal Aviation Administration Orders implementing NEPA.

Attachment A

Frequently Asked Questions and Answers on Airport Transfers

Question: What federal action is required?

Answer: The federal action required is the FAA's determination on the eligibility of the proposed new sponsor. This review requires that the FAA determine if the sponsor is legally, financially, and otherwise able to assume and carry out the certifications, representations, warranties, assurances, covenants and other obligations required of sponsors, which are contained in the AIP project application and grant agreements forms. The sponsor must also show that they have the authority to act as a sponsor. *See Grant Assurances 3 Sponsor Fund Availability, 4 Good Title, and 5 Preserving Rights and Powers.*

Question: Who has the authority to transfer an airport to another agency?

Answer: Grant Assurance 5. Preserving Rights and Powers, states an airport owner or sponsor of a federally obligated airport cannot sell, lease, encumber, or otherwise transfer or dispose of any part of an airport without the prior approval of the FAA. A federally obligated airport can be transferred to another public agency or political jurisdiction, airport authority, commission or some form of state, county or local government subject to FAA approval. Whatever form of government, FAA must make sure that the agency has the powers and authority to operate the airport. An airport authority is typically created by enabling legislation; others types of government organization are created by local ordinances or county laws. The FAA Office of Chief Counsel or Regional Counsel should review the authorizing documents, including applicable enabling legislation, municipal ordinances, resolutions or laws.

Question: What are the principal legal forms of transferring an airport?

Answer: An airport owner can transfer airport property by fee simple title to a qualified sponsor. A lease term is another form of transfer: an airport owner leases airport property to a qualified sponsor.

The lease term can be indefinite with no reversion; or the lease term must always exceed twenty years, the useful life of the most current grant agreement. In a lease term with reversion both the airport owner and airport sponsor should be federally obligated. Public use airports cannot be located on privately leased land. All federally obligated airport property must be transferred to the new sponsor.

Question: When should a co-sponsorship agreement be used?

Answer: Co-sponsorship agreements are used when two or more public agencies desire to jointly manage and operate an airport. Co-sponsorship agreements can be developed to overcome a deficiency of a sponsor. For example, the sponsor may own the land but lack the financial resources to provide the local share for grant funded projects. The agreement must be binding on all parties. The terms and conditions of the grant agreements will individually, jointly and severally bind co-sponsors unless the written agreement states otherwise.

Question: What action should the FAA take during a Disputed Transfer?

Answer: When the existing sponsor opposes an attempt to transfer sponsorship to another entity and a legal dispute is pending, the FAA will refrain from evaluating a transfer request regarding the control of the airport. The FAA will not consider the transfer request until the current sponsor agrees to the transfer, the legal dispute is resolved, or the proponents of the transfer demonstrate that the transfer is consistent with state and federal law. When these cases arise, refer all action to ACO.

Attachment B

SAMPLE Assignment and Assumption Agreement

This **ASSIGNMENT and ASSUMPTION AGREEMENT** made this _____ day of _____, 20_, by and between the _____ (hereinafter referred to as “Assignor”) and _____ (hereinafter referred to as “Assignee”).

RECITALS

WHEREAS, the _____ is the owner and sponsor of the _____ Airport.

WHEREAS, the [Authority] was created under the _____ Act as a local government entity of regional government. The [Authority] has all rights and powers granted by the Act to an [airport authority] to plan, promote, extend, maintain, purchase, construct, install, improve, repair, and enlarge the airport and airport facilities and to enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of any other powers of the [airport authority] conferred by the Act.

WHEREAS, pursuant to the duly adopted legislation, the [Authority (Assignee)] has the legal authority to manage and operate _____ (Airport), as depicted in the property maps attached hereto as **Exhibit 1**, as the official airport sponsor and successor to _____ (Assignor) .

WHEREAS, pursuant to the duly adopted legislation, the [Authority] will assume the rights, interests, obligations, covenants, and interest in, to, and under all existing and future documents giving rise to obligations to the Federal Government, including the commitments undertaken concerning the outstanding grant assurances for the FAA Grant Agreements (listing attached as **Exhibit 2**), Passenger Facility Charge (PFC) Records of Decision (ROD)/Final Agency Decision (FAD) and amendments thereto (listing attached as **Exhibit 3**), and Federal Property Instruments of Conveyance (listing attached as **Exhibit 4**); and

WHEREAS, concurrent to execution and exercise of this Assignment and Assumption Agreement, the parties understand the FAA by separate document is approving the [Authority] as an eligible airport sponsor for federal funds and other assistance.

AGREEMENT

NOW, THEREFORE, intending to be legally bound hereby, in consideration of the mutual covenants and agreement herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **Incorporation of Recitals:** The above recitals are included in this Assignment and Assumption Agreement.

2. **Effective Date:** The effective date of this Assignment and Assumption Agreement is the date the FAA approves the transfer of Sponsorship and [issues an Airport Operating Certificate under 14 CFR Part 139].

3. **Assignment.** Assignor hereby grants, conveys, transfers and assigns to Assignee, all of Assignor's rights, title, interests and obligations in, to and under the FAA Grant Agreements (listed on **Exhibit 2**), PFC ROD/FAD and amendments thereto under which the [Authority] is entitled to impose and use PFCs as authorized by the FAA (listed on **Exhibit 3**), and Federal Property Instruments of Conveyance by which federal property was previously transferred to the Assignor for use for airport purposes at the Airport (listed on **Exhibit 4**), attached hereto and made a part hereof. It is the intent of the parties that the right, title, interest and obligations of the Assignor prior to, on and after this date under all outstanding FAA Grant Agreements, PFC ROD/FADs and amendments, and Federal Property Instruments of Conveyance between the FAA and the Assignor are being assigned to the [Authority] hereunder.

4. **Acceptance/Assumption.** Assignee hereby accepts the assignment granted in Section 3 above. Assignee further assumes, covenants, acknowledges and agrees to be bound by and to perform, observe and be subject to all of the terms, covenants and conditions of the FAA Grant Agreements (listed in **Exhibit 2**), the PFC ROD/FADs and amendments (listed in **Exhibit 3**) and the Federal Property Instruments of Conveyance (listed in **Exhibit 4**) on and after the date of this Assumption Agreement, the terms, covenants and conditions of which are hereby incorporated herein by reference. The [Authority] also assumes all obligations as required for the collection and use of PFCs. This specifically includes compliance with 14 CFR Part 158 Appendix A-Assurances (parts A and B), and Part 158, Subpart D-Reporting, Recordkeeping and Audit requirements.

5. **Transfer of Airport Revenue and Personal Property:** The Assignor will transfer to the [Authority] on the Effective Date the following: (a) all Airport Revenue, including Airport Enterprise Funds, on hand with the Assignor, as identified in **Exhibit 5** and (b) all equipment and personal property used in the operation of the Airport as identified in **Exhibit 6** as of the Effective Date.

6. **Representation.**
Assignor represents and warrants that:
 - (a) It has fully complied with the terms of the FAA Grant Agreements, PFC ROD/FADs and amendments, and Federal Property Instruments of Conveyance, that it is not in default under these terms, that it has not received notice of default from any other party to the FAA Grant Agreements, PFC ROD/FADs and amendments and Federal Property Instruments of Conveyance and that, to the best of the knowledge of Assignor, no other party to the FAA Grant Agreements, PFC ROD/FADs and amendments, and Federal Property Instruments of Conveyances is in default under the terms of these obligations and agreements and decisions.

- (b) The Assignor has the right to assign the FAA Grant Agreements, PFC ROD/FADs and amendments, and Federal Property Instruments of Conveyance subject to FAA approval.

- 7. **Notice.** Any notice herein required or permitted to be given shall be deemed given if and when mailed in a sealed envelope by United States certified mail, return-receipt requested, postage prepaid, properly addressed as follows or such other address as specified by notice to the other party in accordance with the provisions of this section:

As to Assignor:

With a copy to:

As to Assignee:

With a copy to:

- 8. **Legally Binding.** All agreements, covenants, conditions and obligations contained in this Assignment and Assumption Agreement shall be legally binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The FAA is intended to be a third party beneficiary with respect to all provisions of this Assignment and Assumption Agreement.
- 9. **Complete Agreement.** This Assignment and Assumption Agreement constitutes the entire understanding and agreement of the Assignor and Assignee and supersedes all prior agreements and understandings between them, whether written or verbal, with respect to the subject matter hereof.
- 10. **Severability.** If the application of any provision of this Assignment and Assumption Agreement to any particular facts or circumstances will for any reason be held to be invalid, illegal or unenforceable by a court, arbitration panel or other tribunal of competent jurisdiction, then (i) the validity, legality and enforceability of such provision as applied to any other particular facts or circumstances, and the other provisions of this Agreement, will not in any way be affected or impaired thereby and (ii) such provision will be enforced to the maximum extent possible so as to effect the intent of the parties.

IN WITNESS WHEREOF, Assignor and Assignee have caused the Assignment and Assumption Agreement to be executed by their duly authorized representatives the day and year first above written.

ATTEST:

ASSIGNOR:

By: _____ By: _____
Name: _____ Name: _____
Title: _____ Title: _____

ATTEST:

ASSIGNEE:

By: _____ By: _____
Name: _____ Name: _____
Title: _____ Title: _____

Assignment and Assumption Agreements

EXHIBIT 1 – Airport Property Map

EXHIBIT 2 – List of FAA Grant Agreements

EXHIBIT 3 – List of Passenger Facility Charge Records of Decisions/Final Agency Decisions and Amendments thereto

EXHIBIT 4 – List of Federal Property Instruments of Conveyance

EXHIBIT 5 - List of Airport Revenue

EXHIBIT 6 – List of Personal Property and Equipment Used in the Operation of the Airport

Attachment C

APP-520 Transfer Checklist

Required Information to be provided by the New Sponsor:

- ☐ A detailed list of SOAR grant history, including open and closed grants being transferred, including grant numbers
- ☐ The proposed transfer date
- ☐ A copy of the signed transfer agreement language regarding grant obligations

Required Actions by New Sponsor:

- ☐ Apply for a Data Universal Numbering System (DUNS) Number by visiting the Dun & Bradstreet (D&B) website <http://fedgov.dnb.com/webform/>. It takes no more than 1-2 business days to obtain a DUNS number. Effective April 2022, federal government will transition from DUNS to Unique Entity Identifier (UEI) UEI is created in <https://www.sam.gov> as part of registration process.
- ☐ After obtaining a DUNS number, register with the System for Award Management (SAM) at <https://www.sam.gov/portal/public/SAM/>. All entities must have a SAM account to do business with the Federal Government.

NOTES:

1. There is no fee to register and maintain a registration in SAM.
 2. Sponsors must have a Taxpayer ID Number (TIN) and Taxpayer Name to register for a SAM account.
 3. Sponsors must mail an original, signed notarized letter to the Federal Service Desk within 60 days of activation.
 4. Sponsors should allow up to 12-15 business days after submission before the registration is active in SAM.
- ☐ Provide a W-9 and ACH forms directly to accounting (AMK) due to sensitive information.
 - ☐ Request access to Delphi e-Invoicing through the appropriate Airports District Office (ADO).
 1. Once notified by email from Delphi e-invoicing, follow the instructions to activate the new account at einvoice.esc.gov
 2. Old sponsor will not be able to receive payments after the transfer date
 3. Old sponsor must not attempt to request payments in Delphi e-Invoicing after the transfer date

Note: The new sponsor must achieve the above four (4) actions to receive grant payments. All of these actions for the new sponsor can take six (6) weeks or more to accomplish.

Required Actions by ADO/RO:

- ☐ Initiate the sponsor transfer checklist and notify the new sponsor of the required actions
- ☐ If necessary, notify AMK to stop payments
- ☐ Confirm the new sponsor has a DUNS/UEI number and is registered in SAM
- ☐ Create a new sponsor in SOAR. Insert the new Delphi i-Supplier Number, DUNS/UEI and TIN in SOAR on the new sponsor page
- ☐ ADO/RO submits a Delphi Sponsor User Access Request online form at <https://delphihome.esc.gov> for the new sponsor
- ☐ Create a list of grants to be transferred and notify AMK
- ☐ Add the new sponsor to the Risk Tool

RO must submit the following information to APP-520

- ☐ Notify APP-520 (Manager and financial lead) with a “heads-up” email for the pending transfer.
- ☐ A copy of the FAA ACO-100 letter approving the transfer
- ☐ A copy of the signed Assignment and Assumption Agreement
- ☐ A list of SOAR grant numbers being transferred. This list is included as part of the Assignment and Assumption Agreement

Required Actions by APP-520:

- ☐ Contact accounting (AMK) to:
 - Confirm that they received the new sponsors W-9 and ACH forms
 - Put the old sponsor’s Delphi status on hold
 - Request a vendor merge from the old sponsor to the new sponsor in Delphi
- ☐ Provide a list of grants/POs to for the vendor merge Post a Finding and Ideas (F&I) in SOAR to transfer the list of old/open grants from the old sponsor to the new sponsor.
- ☐ Place new sponsor on HQ Hold in SOAR until all checklists are complete, financials are verified, the transfer is complete on the back-end of SOAR, and the copy of the transfer approval is received from ACO
- ☐ Change the old sponsor status to Inactive