

APPENDIX E

Access Plans: Required Documentation and Narrative from Commercial Service Airport Sponsors with Existing Access

A. Access Agreement Review Sheet

Provide copies of the written access agreement(s) between the sponsor and residential through-the-fence user(s) or association(s) representing residential through-the-fence users. Sponsors who have entered into a residential through-the-fence agreement with an association may need to provide additional documentation such as covenants, conditions, and restrictions (CC&Rs). If the same agreement is used with multiple residents, the sponsor is only required to submit one copy of the agreement with an explanation noting the number of residences to which it pertains. Identify the page number or paragraph which documents the following:

1. The residential through-the-fence user pays airport access charges that are comparable to tenants and operators on-airport making similar use of the airport.

Document: _____

Page number or paragraph: _____

If this page or paragraph does not define tenants and operators on-airport making similar use of the airport, explain how the airport sponsor defines this term and the fee/rate structure charged to these tenants.

If this page or paragraph does not include an escalation clause, explain if the fees/rates charged to the residential through-the-fence user increase on the same schedule as the fees/rates for tenants and operators on-airport making similar use of the airport.

If the two fee schedules do not transparently appear to be equivalent, explain the rationale used by the airport sponsor to make such determination.

2. Residential through-the-fence users bear the cost of building and maintaining the infrastructure the airport sponsor determines is necessary to provide aircraft located on the adjacent property to or near the airport access to the airfield of the airport.

Document: _____

Page number or paragraph: _____

3. The residential through-the-fence user is prohibited from using their property, or permitting any third party from using their property, for any commercial aeronautical purpose for the duration of the access agreement.

Document: _____

Page number or paragraph: _____

4. Access to the airport from unauthorized users, through the property of the residential through-the-fence access agreement holder, is prohibited.

Document: _____

Page number or paragraph: _____

5. The residential through-the-fence user is prohibited from selling aviation fuel on their property.

Document: _____

Page number or paragraph: _____

This agreement has been executed with (insert number) residential through-the-fence (user(s) or homeowners association(s)).

B. Airport and Access Drawing, Summary Table, & Narrative

Required Documentation:

1. Provide an airport and access drawing (scale 1"=200' to 1"=600') which clearly depicts all existing and proposed:
 - Airport and residential through-the-fence parcels;
 - Runways (length, width, orientation, thresholds, hold lines);
 - Runway Safety Areas, Object Free Areas, Precision Obstacle Free Areas (if applicable), and Runway Protection Zones;
 - Taxiways;
 - Navigational aids;
 - On-airport structures (hangars, buildings, fuel facilities, ramps, roads, etc.)
 - Off-airport structures adjacent to the airport's property boundary, include all residential through-the-fence lots (identify lots by number or letter);
 - Fences and gates;
 - All existing and proposed residential through-the-fence access points; and
 - Municipal boundaries.
2. Provide a summary table which describes the following as associated with each residential through-the-fence parcel:
 - Access point utilized as referenced on the airport and access drawing sheet;

- Development name (if the residence is part of a community, platted subdivision, etc.)
 - Lot;
 - Owner;
 - Number of residential improvements proposed;
 - Number of residential improvements constructed;
 - Type of residential improvement (single family home, apartment, undeveloped parcel, etc.);
 - Enabling instrument (access agreement, lease, deed, easement, etc.);
 - Date of execution or recording;
 - Term of agreement;
 - Number of access points granted;
 - Number of access points currently utilized;
 - Zoning designation and the entity controlling zoning for that parcel;
 - The access fee collected annually;
 - Number of aircraft associated with each residence; and
 - If there are any restrictions in the enabling instrument restricting the sale, assignment, or subleasing of the property.
3. Provide a description of the airport that identifies the number of aircraft based on the airport and the estimated or actual number of annual local and itinerant operations.
 4. Provide a description of the hangar/tie-down space available on the airport property as identified on the airport and access drawing. This description must include the total number of hangars/tie-downs on airport property, the number of hangars/tie-downs currently rented, and the number available for rent. If all on-airport hangars/tie-downs are currently rented, the description must include what steps the sponsor is taking or plans to take to develop additional hangar/tie-down space.

C. General Authority for Control of Airport Land and Access: Grant Assurance 5, Preserving Rights and Powers, prohibits airport sponsors from taking 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 the grant agreement without the written approval of the Secretary. This includes maintaining sufficient control of access points and operations across airport boundaries to maintain safe operations, and to make changes in airport land use to meet future needs.

Required Documentation:

1. Provide a detailed description of the nature, structure, duration, and terms associated with each residential through-the-fence access arrangement.
2. Provide copies of access agreements and/or governing documents (i.e., agreements, easements, deeds, Covenants, Conditions, and Restrictions or CC&Rs, etc).
3. Provide copies of any aviation easements the sponsor might hold.
4. Describe how the access agreements/governing documents are subordinate to the airport sponsor's grant assurances. If they are not, explain how the sponsor can invoke changes to the agreement to ensure ongoing compliance with its grant obligations.

5. Describe the airport sponsor's legal ability to impact zoning changes around the airport. Describe the current zoning for and around the airport. Describe any steps the airport sponsor has taken to limit new residential zoning around the airport.
6. Describe any access controls that residential through-the-fence users must utilize when taxiing onto airport property. If there is no fence, describe the signage or markings used to delineate airport property from private property.
7. Describe the process utilized to educate your local community and residential through-the-fence users about your Federal obligations as an airport sponsor.
8. If the airport sponsor has established any short-term or long-term plans for eliminating residential through-the-fence access, describe those plans.

D. Safety of Airport Operations: Grant Assurance 19, Operation and Maintenance, requires the airport sponsor to ensure the airport and all facilities which are necessary to serve the aeronautical users of the airport are operated at all times in a safe and serviceable condition.

Required Documentation:

1. Provide a copy of any specific rules/requirements that apply only to residential through-the-fence users (if established). Explain how residential through-the-fence users are subject to the same rules and regulations as on-airport users.
2. Describe any process the sponsor has developed to sanction residential through-the-fence users who violate the airport's rules and regulations.
3. Describe any restrictions or special requirements imposed on fly-in guests who taxi from the airport's property to visit off-airport residents. Describe how those restrictions or special requirements are communicated to the residential through-the-fence users and their guests. Describe how the sponsor monitors this practice.
4. Describe the mechanism used to separate aircraft and vehicular traffic.
5. Describe the mechanism used to prevent residential/domestic activities (i.e., dog walking, sports, etc.) from occurring on airport property, and particularly within the air operations area associated with runway safety areas, runway protection zones, runway object free zones, taxiway safety areas, obstacle free areas, object free areas and primary surface properties. Describe how this is monitored and enforced.
6. Describe the mechanism used to prevent through-the-fence residents from establishing potential wildlife attractants (i.e., water detention ponds, gardens, composting lots, etc.) near the airport. If wildlife attractants have been established, describe how the airport requires through-the-fence residents to mitigate.
7. Describe how aircraft access each runway threshold from the RTTF access points. Identify any residential through-the-fence taxi routes that preclude the sponsor from meeting any FAA design standards. Describe any plans the airport sponsor may have to meet the FAA design standards in the future. If proposing a modification to standards, a Safety Assessment Screening must be completed and the requirements contained in FAA Order 5300.1F, *Modifications to Agency Airport Design, Construction, and Equipment Standards* must be addressed.

E. Rates and Charges: Grant Assurance 24, Fee and Rental Structure, requires an airport sponsor to 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. Residential through-the-fence users are not protected by Grant Assurance 22, Economic Nondiscrimination, and the FAA will not entertain allegations of unreasonableness for residential through-the-fence access.

Required Documentation:

1. A description of how the airport sponsor collects access fees from residential through-the-fence users and their guests who taxi from the airport to an off-airport residence.

F. Protection of Airport Airspace: Grant Assurance 20, Hazard Removal and Mitigation, requires airport sponsors to 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.

Two of FAA's prime objectives are to promote air safety and the efficient use of the navigable airspace. Title 14 CFR part 77, "Objects affecting the navigable airspace," establishes standards and notification requirements for objects affecting navigable airspace. Notification of an off-airport project under FAA Form 7460-1, Notice of Proposed Construction or Alteration, prompts FAA to conduct an aeronautical study based on information provided by its proponent to identify potential aeronautical hazards in advance to prevent or minimize the adverse impacts to the safe and efficient use of navigable airspace. The FAA's authority to promote the safe and efficient use of the navigable airspace, whether concerning existing or proposed structures, is predominantly derived from title 49 U.S.C., § 44718; § 44718 does not provide specific authority for FAA to regulate or control how land (i.e., real property) may be used in regard to structures that may penetrate navigable airspace. In addition, the Federal Government lacks the authority to regulate local land use. Therefore, it is critical that airport sponsors identify tools they can use to protect the airport's airspace both on and off the airport.

Required Documentation:

1. A description of the mechanism used by the airport sponsor to ensure that homes, hangars, other structures, and off-airport taxiways do not penetrate the airport's protected surfaces. If available, provide verification that airspace studies were conducted for residential through-the-fence homes, hangars, other structures, and off-airport taxiways.
2. A description of the mechanism used to require residential through-the-fence users to complete FAA Form 7460-1, Notice of Proposed Construction or Alteration, when they propose to erect and/or alter structures on their property.
3. A description of the mechanism used to require residents to trim/remove trees and/or any other potential obstructions.
4. A description of any legal powers and/or authorities the airport sponsor might have to prohibit new construction determined to be a hazard to air navigation.

G. Compatible Land Uses Around the Airport: Grant Assurance 21, Compatible Land Use, requires airport sponsors to take appropriate action, to the extent reasonable, 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.

Required Documentation:

1. A description of the mechanism used by the airport sponsor to monitor proposed and actual zoning changes/designations in land use surrounding the airport. Describe how the sponsor plans to avoid residential encroachment or other noncompatible land uses.
2. A description of any actions the airport sponsor may be taking to educate the local zoning/land use authority about the sponsor's obligations as a federally-obligated airport.
3. A description of any plans the airport sponsor may have with regard to the acquisition of aviation easements.
4. Does the residential use conflict with any current or planned aviation uses at the airport? If it does, describe the airport sponsor's plans to address this conflict.
5. A description of any local or state requirements or limitations with regard to the proximity of homes and aeronautical activities. Do any off-airport structures conflict with the current or future establishment of fueling activities, aircraft maintenance, flight training, aircraft charter, banner towing, crop dusting, parachuting, aircraft storage, etc.?
6. A description of the airport sponsor's mechanism for receiving and tracking noise complaints. Please also note how this program is promoted to the local community.

H. Sponsor Certification: Airport sponsors may certify their access plan with the sample certification form, by passing a local resolution, or submitting a signed affidavit. A sample certification form is in the external electronic toolkit at:

http://www.faa.gov/airports/airport_compliance/residential_through_the_fence/