

Appendix E. Sample Deed of Conveyance

FORMER BERGSTROM AIR FORCE BASE, TRAVIS COUNTY, TEXAS

I. PARTIES

This Deed made this ____ day of _____, 2004, by and between the United States of America, acting by and through the Secretary of the Air Force whose address is Washington, D.C., under and pursuant to the Federal Property and Administrative Services Act of 1949, approved June 30, 1949, (63 Stat. 377), 40 U.S.C. § 101, *et seq.*, as amended, and regulations and orders promulgated there under; the Defense Base Closure and Realignment Act of 1990, P.L. No. 101-510, as amended, and regulations and orders promulgated there under; and a delegation from the Administrator of General Services to the Secretary of Defense, and a subsequent delegation from the Secretary of Defense to the Secretary of the Air Force, party of the first part, as Grantor, and the City of Austin, Texas, a body politic created, operating, and existing under and by virtue of the laws of the State of Texas, party of the second part, as Grantee.

WITNESSETH THAT:

WHEREAS, the Grantor is the owner of the real property described herein, located within the former Bergstrom Air Force Base, situated in Travis County, Texas; and

WHEREAS, the Grantee provided to the United States the money to purchase the real property described herein, under the condition that the United States retain title until such property was abandoned as a permanent Air Base, at which time the Grantee could elect to require the Grantor to convey such land and the improvements thereon to the Grantee; and

WHEREAS, the real property described herein was duly declared surplus and available for disposal pursuant to the powers and authority contained in the provisions of the Defense Base Closure and Realignment Act of 1990, P.L. No. 101-510, as amended, and orders and regulations promulgated there under; and

WHEREAS, pursuant to the resolution passed by the City Council of the Grantee dated February 27, 1947, the Grantee requests full legal title to such real property be conveyed to the Grantee.

II. CONSIDERATION AND CONVEYANCE

NOW, THEREFORE, in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor does hereby REMISE, RELEASE and FOREVER QUITCLAIM, Without Warranty or representation, express or implied except as expressly stated herein, and excluding all warranties that might arise by common law and the warranties under Section 5.023 of the Texas Property Code (or its successor) unto the Grantee, its successors and assigns forever, all such right and title as the Grantor has or ought to have, in and to the real property described in Exhibit "A" and depicted on the survey drawing attached as Exhibit "B" of this Deed Without Warranty ("Deed") and situated in Travis County, Texas.

III. APPURTENANCES AND HABENDUM

TO HAVE AND TO HOLD, together with all the buildings and improvements erected thereon, except for monitoring wells, treatment wells, and treatment facilities and related piping, and all and singular the tenements, hereditaments, appurtenances, and improvements hereunto belonging, or in any wise appertaining, (which, together with the real property described herein, known as Parcel H called the "Property" in this Deed) the Property to the Grantee.

IV. RESERVATIONS

A. RESERVING UNTO THE GRANTOR, including the State of Texas (the "State"), and its and their respective officials, agents, employees, contractors, and subcontractors, the right of access to the Property (including the right of access to, and use of, utilities at reasonable cost to the Grantor), for the following purposes and for such other purposes as are necessary to ensure that a response or corrective action found to be necessary, either on the Property or on adjoining lands, after the date of transfer by this Deed will be conducted:

1. To conduct investigations and surveys, including, where necessary, drilling, soil and water sampling, test pitting, testing soil borings, and other activities relating to any such response or corrective action.
2. To inspect field activities of the Grantor and its contractors and subcontractors in implementing any such response or corrective action.
3. To conduct any test or survey required by the state relating to any such response or corrective action, or to verify any data submitted to the EPA or the state by the Grantor relating to any such actions.
4. To conduct, operate, maintain, or undertake any other response, corrective action as required or necessary under applicable law or regulation, or the

covenant of the Grantor in Section VI of this Deed, but not limited to, the installation, closing, or removal of monitoring wells, pumping wells, and treatment facilities that will be owned or operated by the Grantor and its officials, agents, employees, contractors, and subcontractors.

B. PROVIDED, HOWEVER, this Deed is expressly made subject to the following restrictions, covenants, and agreements of the parties affecting the aforesaid Property, which shall run with the land.

V. CONDITIONS

A. The Grantee acknowledges that it has inspected, is aware of, and accepts the condition and state of repair of the Property, and that the Property is conveyed, “as is,” “where is,” without any representation, promise, agreement, or warranty on the part of the Grantor regarding such condition and state of repair, or regarding the making of any alterations, improvements, repairs, or additions. The Grantee further acknowledges that the Grantor shall not be liable for any latent or patent defects in the Property, except to the extent required by applicable law.

B. The Grantee and its successors and assigns hereby understand and agree that all costs associated with removing any restrictions of any kind whatsoever contained in this deed, whether necessitated by an environmental or other law or regulation, shall be the sole responsibility of Grantee, its successors and assigns, without any cost whatsoever to the United States.

VI. NOTICES AND COVENANTS RELATED TO SECTION 120(h)(3) OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA), AS AMENDED, (42 U.S.C. § 9620(h)(3)).

A. Pursuant to Section 120(h)(3) of CERCLA of 1980, as amended (42 U.S.C. § 9620(h)(3)), the following is notice of hazardous substances on the Property and the description of remedial action taken concerning the Property:

1. The Grantor has made a complete search of its files and records. Exhibits C and D contain tables with the names of hazardous substances stored for one year or more, or known to have been released or disposed of, on the Property; the quantity in kilograms or pounds of the hazardous substance stored for one year or more, or known to have been released, or disposed of, on the Property; and the date(s) on which such storage, release, or disposal took place.
2. Pursuant to Section 120(h)(3)(A)(ii) of CERCLA, the United States covenants and warrants:

- (a) That all remedial action necessary to protect human health and the environment with respect to hazardous substances remaining on the Property has been taken before the date of this Deed: and
 - (b) Any additional remedial action found to be necessary after the date of this Deed for contamination on the Property existing prior to the date of this Deed will be conducted by the United States. This covenant will not apply in any case in which any grantee of the Property, or any part thereof, is a potentially responsible party with respect to the Property before the date on which any grantee acquired an interest in the Property, or is a potentially responsible party as a result of an act of omission affecting the Property. For the purposes of this covenant, the phrase “remedial action necessary” does not include any performance by the United States, or payment to the Grantee from the United States, for additional remedial action that is required to facilitate use of the Property for uses and activities prohibited by those environmental use restrictive covenants set forth in Section VII below.
3. The United States has reserved access to the Property in the Reservation Section of this deed in order to perform any remedial or corrective action as required by CERCLA Section 120(h)3(A)(ii).

VII. OTHER COVENANTS AND NOTICES

A. General Lead-Based Paint and Lead-Based Paint-Containing Materials and Debris (collectively “LBP”)

1. Lead-based paint was commonly used prior to 1978 and may be located on the Property. The Grantee is advised to exercise caution during any use of the Property that may result in exposure to LBP.
2. The Grantee agrees that in its use and occupancy of the Property, the Grantee is solely responsible for managing LBP, including LBP in soils, in accordance with all applicable federal, state, and local laws and regulations. The Grantee acknowledges that the Grantor assumes no liability for property damages or damages for personal injury, illness, disability, or death to the Grantee, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, contact, disposition, or other activity involving LBP on the Property, whether the Grantee has properly warned, or failed to properly warn, the persons injured. The Grantee further agrees to notify the Grantor promptly of any discovery of LBP in soils that appears to be the result of Grantor activities and that is found at concentrations that may require remediation. The Grantor hereby reserves the right, in its sole

discretion, to undertake an investigation and conduct any remedial action that it determines is necessary.

B. Asbestos-Containing Materials (“ACM”). The Grantee is warned that the Property may contain current and former improvements, such as buildings, facilities, equipment, and pipelines, above and below the ground that may contain ACM. The Grantee covenants and agrees that in its use and occupancy of the Property, it will comply with all applicable federal, state, and local laws relating to asbestos. The Grantee is cautioned to use due care during property development activities that may uncover pipelines or other buried ACM. The Grantee covenants and agrees that it will notify the Grantor promptly of any potentially friable ACM that constitutes a release under the federal Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 *et seq.*). The Grantor’s responsibility under this deed for friable ACM is limited to friable ACM in demolition debris associated with past Air Force activities and is limited to the actions, if any, to be taken in accordance with the covenant contained in Section VI herein.

The Grantee is warned that the Grantor will not be responsible for removing or responding to ACM in or on utility pipelines. The Grantee acknowledges that the Grantor assumes no liability for property damages or damages for personal injury, illness, disability, or death to the Grantee, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property, whether the Grantee has properly warned, or failed to properly warn, the persons injured.

C. Soils and Groundwater Access. The Grantee covenants for itself, its successors and assigns and every successor in the interest to the property herein described, or any part thereof as follows:

1. Conducting any type of surface or subsurface activity on the Property, such as, but not limited to, the excavation of soils, use of soils, installation of groundwater wells, or other access to groundwater, installation or repair of utilities, installation of foundation piers, because such actions may cause an exposure to the contaminants or waste left in place. Performance of any type of access to the Property that would interfere with or damage the remedies in place or the conducting of intrusive activity on the Property is prohibited unless the following requirements are adhered to:

- a. The current owner or future owner of the Property, in instances when surface or subsurface construction activities must be taken; any such owner must comply with all the applicable environmental, worker protection and other laws, rules and regulation. The owner must prepare a Work Plan describing the activities proposed within the Property. The owner of the Property must also develop and adhere to a Health and Safety Plan that addresses worker protection and contingencies for possible potential releases of contaminants from the affected media that may be encountered when conducting the aforementioned activities. The Work Plan and Health and Safety Plan must be approved by the Air Force prior to initiating any such activities within the Property.
2. Due to the presence of contamination and waste left in place, exposure to the soil and groundwater within the Property may pose an increased risk to human health and environment; therefore, residential use of the property is prohibited.

D. Access to Fenced Area. The Grantee covenants for itself, its successors and assigns and every successor in the interest to the property herein described, or any part thereof not to enter the fenced area located on the parcel, depicted in Exhibit B, without the express, written permission of the Air Force. This area is restricted in order to protect the remedy selected and to minimize risk to human health and environment.

E. Nondiscrimination. The Grantee covenants not to discriminate upon the basis of race, color, religion, national origin, sex, age, or handicap in the use, occupancy, sale, or lease of the Property, or in its employment practices conducted thereon. This covenant shall not apply, however, to the lease or rental of a room or rooms within a family dwelling unit, nor shall it apply with respect to religion if the Property is on premises used primarily for religious purposes. The United States of America shall be deemed a beneficiary of this covenant without regard to whether it remains the owner of any land or interest therein in the locality of the Property.

F. Hazards to Air Navigation. Prior to commencing any construction on, or alteration of, the Property, the Grantee covenants to comply with 14 CFR part 77 entitled "Objects Affecting Navigable Airspace", under the authority of the Federal Aviation Act of 1958 (FAA Act), as amended.

NOTICE ONLY:**G. Energy/ Infrastructure Lines.**

The Grantee is hereby notified that areas within the Parcel have the potential for containing buried utility lines not indicated on maps used for locating subsurface utilities, with an increasing likelihood for such unidentified locations on the Property near the former industrial areas of the Former Bergstrom AFB. Hazards associated with these unmapped utility lines include contact with materials of construction, as well as contact with materials conveyed such as pressurized natural gas, petroleum fuel products, and high voltage electricity.

Note, if the transfer is to a private party, meaning any person or entity other than the City of Austin, the utility company owns an easement that may not be included in the transfer. In such a case, the utility company should be consulted prior to any excavation or drilling into the subsurface. Any activity conducted on the Property, which will include excavation, or drilling into the subsurface should be conducted in accordance with all appropriate industry safety precautions in consideration of the potential presence of such unmarked utility lines.

H. Radon. The Grantee is hereby informed and does acknowledge that currently the Property contains a natural occurrence of radon at levels that require no action. The base was considered a medium-risk area due to radon concentrations between 4-20 pCi/l.

VIII. AIRPORT COVENANTS:

A. Grantee covenants and agrees, on behalf of itself and its successors and assigns, with regard to use of the Property, that the following covenants, conditions and restrictions will run with the land and be enforceable by Grantor acting through the Administrator of the Federal Aviation Administration (FAA) against the Grantee, and each successor, assign, or transferee of the Grantee, including without limitation, any tenant or licensee of the Grantee who may claim a possessory interest in any portion of the Property.

1. Except as provided in Section VIII.A.4 of this Quitclaim Deed, the Property shall be used for public airport purposes for the use and benefit of the public, on reasonable terms and without unjust discrimination and without grant or exercise of any exclusive right for the use of the Property within the meaning of the term "exclusive right" as used in Section VIII.A.6.
2. Except as provided in Section VIII.A.4 hereof, the entire airfield, as defined in 49 United States Code (U.S.C.) § 40102(a)(28), as amended, and Federal Aviation Regulations pertaining thereto, and all structures, improvements, facilities and

equipment in which any interest is transferred, shall be maintained for the use and benefit of the public at all times in safe and serviceable condition so as to assure its efficient operation and use; provided, however, that such maintenance shall be required to structures, improvements, facilities, and equipment only during the useful life thereof as determined by the Administrator of the FAA or his or her successor in function. In the event materials are required to rehabilitate or repair certain of the aforementioned structures, improvements, facilities, or equipment, they may be procured by demolition of other structures, improvements, facilities, or equipment transferred as a result of this Quitclaim Deed and located on the Property, which have outlived their use as a public airport in the opinion of the Administrator of the FAA or his or her successor in function. Notwithstanding any other provision of this Quitclaim Deed:

- a. With the prior written approval of the FAA, the Grantee may close or otherwise limit use or access to any portion of the Property that it deems appropriate if such closure or use limitation is related to airport operating considerations or is based upon insufficient demand for such portion of the Property; and
 - b. With respect to any such portion of the Property, the Grantee shall be under no obligation to maintain the same other than as may be required to maintain adequate public safety conditions.
3. Insofar as it is within its power and to the extent reasonable, the Grantee shall adequately clear and protect the aerial approaches to the Property. The Grantee will, either by the acquisition and retention of easements or other interest in or rights for the use of land airspace, or by seeking the adoption and enforcement of zoning regulations, prevent the construction, erection, alteration, or growth of any structure, tree, or other object in the approach areas of the runways on the Property which would constitute an obstruction to air navigation according to the criteria or standards prescribed in Part 77 of the Federal Aviation Administration regulations or 14 CFR part 77, as applicable, according to the currently approved Airport Layout Plan. In addition, the Grantee will not erect, or permit the erection of, any permanent structure or facility which would interfere materially with the use, operation, or future development of the Property, in any portion of a runway approach area in which the Grantee has acquired, or may hereafter acquire, a property interest permitting it to so control the use made of the surface of the land. Insofar as it is within its power to the extent reasonable, the Grantee will take action to restrict the use of the land adjacent to or in the immediate operations, including landing and takeoff of aircraft.

4. No land or improvements included in the Property shall be used, leased, sold, salvaged, or disposed of by the Grantee for other than airport purposes without the written consent of the Administrator of the FAA or his or her successor in function. This consent shall be granted only if the Administrator of the FAA or his or her successor in function determines that the land or improvements can be used, leased, sold, salvaged, or disposed of for other than airport purposes without materially and adversely affecting the development, improvement, operation, or maintenance of the Property. The term "Property" as used in this deed, is deemed to include revenues or proceeds (including any insurance proceeds) derived from the Property.
5. Land and improvements transferred for the development, improvement, operation or maintenance of the Property as an airport shall be used and maintained for the use and benefit of the public on fair and reasonable terms, without unjust discrimination. In furtherance of this covenant (but without limiting its general applicability and effect), the Grantee specifically agrees:
 - a. That it will keep the Property open to all types, kinds and classes of aeronautical use without discrimination between such types, kinds and classes. However, the Grantee may establish such fair, equal, and not unjustly discriminatory conditions to be met by all users of the Property as may be necessary for the safe and efficient operation of the Property; and provided, that the Grantee may prohibit or limit any given type, kind, or class of aeronautical use of the Property if such action is necessary for the safe operation of the Property or necessary to serve the civil aviation needs of the public;
 - b. That, in its operation and the operation of the Property, neither it nor any person or organization occupying space or facilities thereupon, will discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of any of the facilities provided for the public at the Property;
 - c. That, in any agreement, contract, lease, or other arrangement under which a right or privilege at the Property is granted to any person, firm or corporation to conduct or engage in any aeronautical activity for furnishing services to the public at the Property, the Grantee will insert and enforce provisions requiring the contractor:

- (1) To furnish such service on a fair, equal and not unjustly discriminatory basis to all users thereof, and
 - (2) To charge fair, reasonable, and not unjustly discriminatory prices for each unit for service, provided, that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers;
 - d. That, the GRANTEE will not exercise or grant any right or privilege which would operate to prevent any person, firm, or corporation operating aircraft on the Property from performing any services on its own aircraft with its own employees (including, but not limited to maintenance and repair) that it may choose to perform; and
 - e. That, in the event the Grantee, itself exercises any of the rights and privileges referred to in Section VIII.A.5.c., above, the services involved will be provided on the same conditions as would apply to the furnishing of such Section X.A.5.c.
6. The Grantee will not grant or permit any exclusive right for the use of the Property which is forbidden by 49 U.S.C. § 47107(a)(4) by any person or applicable laws. In furtherance of this covenant (but without limiting its general applicability and effect), the Grantee specifically agrees that, unless authorized by the Administrator of FAA or his or her successor in function, it will not, either directly or indirectly, grant or permit any person, firm or corporation the exclusive right to conduct any aeronautical activity on the Property, including but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising, and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products, whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity. The Grantee further agrees that it will terminate as soon as possible and no later than the earliest renewal, cancellation, or expiration date applicable thereof, any exclusive right existing at any airport owned or controlled by the Grantee or hereinafter acquired, and that, thereafter, no such right shall be granted. However, nothing contained in this deed shall be construed to prohibit the granting or exercise of an exclusive right for the furnishing of nonaviation products and supplies or any services of a nonaeronautical nature, or to obligate the Grantee to furnish any particular nonaeronautical service at the Property.

7. The Grantee will operate and maintain in a safe and serviceable condition, as deemed reasonably necessary by the Administrator of the FAA or his or her successor in function, the Property and all facilities thereon and connected therewith which are necessary to service the aeronautical users of the airport other than facilities owned or controlled by the United States, and the Grantee shall not permit any activity thereon which would interfere with its use for airport purposes. Nothing contained herein shall be construed to require:
 - a. That the Property be operated for aeronautical uses during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance; or
 - b. The repair, restoration or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstances beyond the control of the Grantee.
8. The Grantee will:
 - a. Furnish the FAA with annual or special airport financial and operational reports as may be reasonably requested using either forms furnished by the FAA or in such manner as it elects so long as the essential data are furnished; and
 - b. Upon reasonable request of the FAA, make available for inspection by any duly authorized representative of the FAA the Property and all airport records and documents affecting the Property, including deeds, leases, operation and use agreements, regulations, and other instruments, and will furnish to the FAA a true copy of any such document which may be reasonably requested.
9. The Grantee will not enter into any action which would operate to deprive it of any of the rights and powers necessary to perform or comply with any or all of the covenants and conditions set forth in this deed unless by such transaction the obligation to perform or comply with all such covenants and conditions is assumed by another public agency found by the FAA to be eligible as a public agency, as defined in 49 U.S.C. § 47102(15), to assume such obligations and have the power, authority, and financial resources to carry out all such obligations. If an arrangement is made for management or operation of the Property by any agency or person other than the Grantee, the Grantee shall reserve sufficient rights and authority to insure that such airport will be operated and maintained in accordance with these covenants and conditions, applicable federal statutes, and applicable provisions of the Federal Aviation Regulations.

10. The Grantee will at all times keep an up-to-date Airport Layout Plan of the airport operated by it on the Property, showing:
 - a. The boundaries of the airport and all proposed additions thereto, together with the boundaries of all off-site areas owned or controlled by the Grantee for airport purposes and proposed additions thereto;
 - b. The location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars, and roads), including all proposed extensions and reductions of existing airport facilities; and
 - c. The location of all existing and proposed nonaviation areas and all existing improvements and uses. The Airport Layout Plan and each amendment shall be evidenced by the signature of a duly authorized representative of the FAA on the face of the Airport Layout Plan. The Grantee will not make, or permit the making of, any changes or alternations in the airport or any of its facilities other than in conformity with the Airport Layout Plan as so approved by the FAA, if such changes or alterations might adversely affect the safety, utility, or efficiency of the airport.
11. If at any time it is determined by the FAA that there is any outstanding right, or claim of right, in or to the Property described herein, the existence of which creates an undue risk of interference with the operation of the Property as an airport or the Grantee will, to the extent practicable, acquire, extinguish, or modify such right or claim of right in a manner acceptable to the FAA.
12. The Grantee covenants and agrees for itself, its successors and assigns that:
 - a. The program for or in connection with which this deed is made will be conducted in compliance with, and the Grantee, its successors and assigns, will comply with all requirements imposed by or pursuant to, the regulations of the United States Department of Transportation ("DOT") in effect on the date of the transfer (49 CFR part 21) issued under the provisions of Title VI of the Civil Rights Act of 1964, as amended;
 - b. This covenant shall be subject in all respects to the provisions of such regulations;
 - c. The Grantee, its successors and assigns, will promptly take and continue to take such action as may be necessary to effectuate this covenant;
 - d. The United States shall have the right to seek judicial enforcement of this covenant; and
 - e. The Grantee, its successors and assigns, will:

- (i) Obtain from any person, including any legal entity, who, through contractual or other arrangement with the Grantee, its successors and assigns, is authorized to provide services or benefits under said program, a written agreement pursuant to which such other person shall, with respect to the service or benefits which he is authorized to provide, undertake for himself the same obligations as those imposed upon the Grantee, its successors and assigns, by this covenant;
- (ii) Furnish the original of such agreement to the Administrator of the FAA or his or her successor in function, upon his or her request therefore; and that this covenant shall run with the land hereby conveyed, and shall in any event, without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity for the benefit of, and in favor of the Grantor against the Grantee, its successors, and assigns.

13. Grantee covenants for itself, its successors and assigns, that any construction or alteration is prohibited unless a determination of no hazard to air navigation is issued by the Federal Aviation Administration in accordance with 14 CFR part 77, entitled "Objects Affecting Navigable Airspace," or under the authority of the Federal Aviation Act of 1958 (FAA Act), as amended.

B. Grantee covenants and agrees, on behalf of itself and its successors and assigns, that it will with regard to future use of the property by the United States:

1. Whenever so requested by the FAA, furnish without cost to the United States, for construction, operation and maintenance of facilities for air traffic control, weather reporting activities, or communication activities related to air traffic control, such areas of the Property or rights in buildings on the Property, as the FAA may consider necessary or desirable for construction at federal expense of space or facilities for such purposes, and the Grantee will make available such areas or any portion thereof for the purposes provided in this deed within four (4) months after receipt of written request from the FAA, if such are or will be available.
2. Make available all facilities at the Property developed with federal aid, and all those usable for the landing and taking off of aircraft, to the United States at all times, without charge, and for use by aircraft of any agency of the United States in common with other aircraft, except that if the use by aircraft of any agency of the United States in common with other aircraft, is substantial, a reasonable share, proportional to such use, of the cost of operating and maintaining facilities so used, may be charged. Unless otherwise determined by the FAA, or otherwise

agreed to by the Grantee and the using federal agency, substantial use of an airport by United States aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the authorized aircraft or, that during any calendar month:

- a. Either five (5) or more aircraft of any agency of the United States are regularly based at the airport or on land adjacent thereto; or
 - b. The total number of movements (counting each landing as a movement and each takeoff as a movement) of aircraft of any agency of the United States is three hundred (300) or more; or
 - c. The gross accumulative weight of aircraft of any agency of the United States using the Airport (total movement of such federal aircraft multiplied by gross certified weights thereof) is in excess of five million pounds "5,000,000 lbs".
3. During any national emergency declared by the President of the United States, or the Congress thereof, including any existing national emergency, the United States shall have the right to make exclusive or nonexclusive use and have exclusive or nonexclusive control and possession, without charge, of the Property and its improvements, as it then exists, or of such portion thereof as it may desire. However, the United States shall be responsible for the entire cost of maintaining such part of the Property as it may use exclusively, or over which it may have exclusive possession or control, during the period of such use, possession or control and shall be obligated to contribute a reasonable share, commensurate with the use made by it, of the cost of maintenance of the Property as it may use nonexclusively or over which it may have nonexclusive control and possession. The United States shall also pay a fair rental for use, control or possession, exclusively or nonexclusively, of any improvements to the property made without United States aid and never owned by the United States.

C. Release from Airport Liability Claims. The Grantee does hereby release the Grantor, and will take whatever action may be required by the Administrator of the FAA or his or her successor in function, to assure the complete release of the GRANTOR, from any and all liability the Grantor may be under for restoration or other damages under any lease or other agreement covering the use by the Grantor of any other airport, or part thereof, owned, controlled or operated by the Grantee, upon which, adjacent to which, or in connection with which, any property transferred by this instrument was located or used. However, no such release shall be construed as depriving the Grantee of any right it may otherwise have to receive reimbursement for the necessary rehabilitation or repair of public airports previously, or hereafter substantially damaged by any federal agency.

D. Reverter and Conveyance by Grantee of the Property.

1. In the event that any of the terms, conditions reservations, or restrictions in this deed are not met, observed, or complied with by the Grantee or any subsequent transferee, whether caused by the legal inability or the Grantee or subsequent transferee to perform any of the obligations herein set out or otherwise, the title, right of possession and all other rights transferred by this instrument to the Grantee, or any portion thereof, shall at the option of the Grantor revert to the Grantor in its then-existing condition sixty (60) days following the date upon which demand to this effect is made in writing by the Administrator of the FAA or his or her successor in function, unless within said sixty (60) days such default or violation shall have been cured and all such terms, conditions, reservations and restrictions shall have been met, observed, or complied with, or if the Grantee shall have commenced the actions necessary to bring it into compliance with such terms, conditions, reservations and restrictions in accordance with a compliance schedule approved by the Administrator of the FAA or his or her successor in function, in which event said reversion shall not occur and title, right of possession, and all other rights transferred hereby, except such, if any, as shall have previously reverted, shall remain vested in the Grantee, its transferees, successors and assigns.
2. Any of the property included in the Property may be successively transferred to successors and assigns of the Grantee only with the approval of the Administrator of the FAA or his or her successor in function to the extent required-by the provisions of Section VIII, subsection A4 hereof, with the proviso that any such subsequent transferee assumes all the obligations imposed herein unless released in writing there from by the Administrator of the FAA or his or her successor in function.

E. Construction of Provisions of This Quitclaim Deed. If the construction as covenants of any of the foregoing reservations and restrictions recited herein as covenants or the application of the same as covenants in any particular instance is held invalid, the particular reservation or restrictions in question shall be construed instead merely as conditions, the breach of which the United States may exercise its options to cause the title, interest, right of possession, and all other rights transferred to the Grantee, or any portion thereof, to revert to it, and the application of such reservations or restrictions as covenants in any other instance and the construction of the remainder of such reservations and restrictions as covenants shall not be affected thereby.

IX. MISCELLANEOUS

A. Each covenant of this Deed shall be deemed to touch and concern the land and shall run with the land.

B. It is the intent of the Grantor and the Grantee that the covenants in Section VIII are between the FAA and the Grantee to this Deed, and those covenants are not intended to run with the land or to bind the successors and assigns of the Grantee to this Deed.

X. THE FOLLOWING EXHIBITS are attached to and made a part of this document:

Exhibit A Legal Description of Property Conveyed

Exhibit B Survey Drawing

Exhibit C Notice of Hazardous Substance(s) Stored

Exhibit D Notice of Hazardous Substance(s) Released

IN WITNESS WHEREOF, the party of the first part has caused this Deed to be executed in its name and on its behalf the day and year first above written.