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**Federal Aviation
Administration**

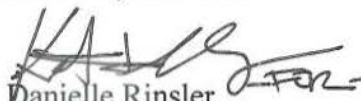
Memorandum

Subject: **ACTION:** Program Guidance Letter 14-05
Noise Land Management and
Requirements for Disposal of Noise Land or
Land Acquired for an Airport Purpose Funded
with AIP

Date: **JUL 02 2014**

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To: All ARP Division Managers, 610 Managers,
620 Managers, all ADOs

Purpose

Public Law 112-95, the FAA Modernization and Reform Act of 2012 (FMRA) Section 135 provided sponsors additional options for keeping or disposing of noise land that was acquired with Airport Improvement Program (AIP) grant funds. The purpose of this Program Guidance Letter (PGL) is to provide information and instruction to sponsors and owners on how to implement these changes for their management of acquired noise land and reporting to FAA. The PGL also provides information and instructions on the requirements for disposal of AIP-funded land that was acquired for an airport purpose.

This Program Guidance Letter (PGL) replaces PGL 08-02, issued January 30, 2008, in its entirety.

Summary of FMRA Changes to Land Disposal Requirements

Use of Proceeds from Sale of Land

Section 135(b) of Public Law 112-95, the FAA Modernization and Reform Act of 2012 (FMRA), revised title 49 of the United States Code, section 47107 to specify how the funds from disposing of AIP funded land must be used. These requirements apply to land that was acquired for noise compatibility and also for land acquired for an airport purpose. Airport purpose consists of aviation activities normally found on an airport.

In 49 U.S.C. § 47107(d), Congress allows reinvestment of sale proceeds from noise land or airport purpose land to be used for eligible airport project costs in descending order of preference for:

1. Approved noise compatibility projects;
2. Other environment projects that are eligible noise set-aside funding under 49 U.S.C. § 47117(e);
3. Eligible development projects;
4. Transferred to an airport with an FAA-approved noise compatibility program; or
5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund (see Section 4 of the attached guidance).

Retention of Acquired Noise Land for Noise Buffer

Section 135(b)(4), codified in 49 U.S.C. § 47107(c)(2), allows a sponsor who acquired land for noise compatibility to designate the land as a noise buffer and then either develop the land in a compatible manner or leave the land undeveloped. This designation of the acquired noise land as a noise buffer will not trigger the disposal requirement. See Section 5 of the attached guidance. Note that this does not apply to land acquired for airport purposes.

Long-term Lease of Noise Buffer at Fair Market Value for Compatible Development

Section 135(b)(5), codified in 49 U.S.C. § 47107(c)(5), further allows that noise buffer land may be leased for airport compatible market development at fair market value (FMV) on a long-term basis. The long-term lease of noise buffer land does not constitute a disposal of the property. Airport owners and operators may use the revenue from such a lease for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue (see Section 5.B. of the attached guidance). Note that this does not apply to land acquired for airport purposes.

Sponsor Update of Noise Land Reuse Plans

The changes in land requirements may require sponsors to modify their FAA-accepted reuse plans.

The attached guidance provides a sample FAA reuse plan acceptance letter and sponsor reuse plan summary for sponsors to submit reuse plan changes to FAA for acceptance (see Appendix B of the attached).

Noise Land Management and
Requirements for Disposal of Noise Land or Development Land Funded with AIP

Federal Aviation Administration
Office of Airport Planning and Programming

June 2014

Cancelled

Table of Contents

Section 1. Obligations Associated with the Airport Improvement Program Funded Noise Land Acquisition	1
A. General	1
B. Eligibility	1
C. Land Acquisition for Airport Purposes.....	2
D. Documentation.....	2
E. Land Grant Assurance and Disposal Hierarchy	2
F. Special Condition for Noise Land Grants	3
G. Use of the Term “Noise Land”	3
Section 2. Management of Noise Land	4
A. Noise Land Inventory	4
B. Reuse Plan	4
Section 3. Disposal of Noise Land or Land Acquired for Airport Purposes	6
A. General Guidance for Disposal	6
1. Clearance of Airport Use or Need	6
2. Assembled Disposal Parcels	6
3. Reviewing Current Market Conditions When Considering Disposal	6
B. Reserving Adequate Property Rights to Prevent Incompatible Land Use	7
C. Acceptable Disposal Methods.....	7
1. Market Sale at the Highest and Best Use of the Property.....	7
2. Exchange of Noise Land for AIP-Eligible Airport Development Land	8
3. Exchange to Clear Local Funded On-Airport Land for Eligible Airport Development	8
4. Sponsor/Owner Buy-out of Federal Interest.....	9
5. Exchange for Ineligible Land Use	9
D. Appraisal Requirements	9
1. Property Sold in Raw Land State	9
2. Sale of Redeveloped Land	10
3. Previously Sold Property	10
E. Eligible Disposal Expenses.....	11
Section 4. Use of Disposal Proceeds for Disposal of Noise Land or for Disposal of Land Acquired for an Airport Development Purpose	12
A. Use of Proceeds for an AIP-Eligible Project.....	12

B. Credit of Land Disposal Proceeds to Eligible Local Funded Expenses	15
C. Transferring Disposal Proceeds to another Airport	15
Section 5. Retention of Noise Land or Land Acquired for Airport Purposes .	16
A. Conversion to AIP-Eligible Airport Development Land	16
B. Conversion to Noise Buffer	16
Section 6. FAA Oversight of Noise Land	18
A. FAA Review of Noise Land Inventory	18
B. FAA Review of the Reuse Plan	18
C. Environmental Review	19
1. Prior Acquisition Approval	20
2. Disposal of Unneeded Land	20
3. Retention and Conversion to Development or Noise Buffer, or Exchange for Development Land	20
D. FAA Acceptance of Noise Land Inventory and Reuse Plan	20
Attachment A: Requirements for Noise Land Inventory	21
Attachment B. Sample Noise Land Re-use Plan Acceptance Letter	23
Enclosure 1: Reuse Plan Summary	27
Attachment C: Appraisal Scope of Work	29
Attachment D: Sample Retained Airport Compatible Land Use Property Restrictions	33

Section 1. Obligations Associated with the Airport Improvement Program Funded Noise Land Acquisition

A. General

Noise land is real property that an airport acquires in a noise-impacted area¹ around an airport. Under Federal land use compatibility guidelines², residences (and other sensitive land uses such as churches, schools) are generally not compatible with noise levels measured in day-night average sound levels of 65 decibels (dB) or greater (DNL 65 dB).

B. Eligibility

To reduce or eliminate incompatible uses, the FAA may issue an Airport Improvement Program (AIP) grant to an airport to acquire land that falls within a certain noise contour (usually the DNL 65 dB contour.) The airport then will convert the land to a use that is compatible with airport operations. These projects may also include relocating the residents of the property outside of the incompatible airport noise contours.

The FAA is not allowed to issue an AIP noise grant to an airport to acquire land to use as a noise buffer or to acquire land for airport development.

As explained in FAA Order 5100.38, the Airport Improvement Program Handbook,³ there are three cases when acquiring noise land is eligible for AIP grant funds:

- If it is a title 14 Code of Federal Regulations (CFR), Part 150 Noise Compatibility Program (NCP) measure.
- It is reimbursement for noise land acquired through Fiscal Year (FY) 1986 or it was a noise compatibility project included in a multi-year grant that was entered into prior to FY 1987. In either of these cases, the project must have been an element of a noise compatibility program determined by the FAA to be substantially consistent with the purposes of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses under title 49 United States Code (U.S.C.), § 47504(c)(2)(c).
- It is required as a mitigation measure in an environmental document for airport development upon which approval of the project is conditioned, such as a mitigation measure in a Finding of No Significant Impact (FONSI) or a Record of Decision (ROD).

¹ Land acquisition procedures and requirements are not included in this guidance. They may be found in the most current version of Land Acquisition and Relocation Assistance for Airport Projects, FAA Order 5100.37.

² 14 CFR, Part 150, Airport Noise Compatibility Planning, Appendix A, Table 1.

³ All referenced FAA documents may be found on the FAA.gov website

C. Land Acquisition for Airport Purposes

The eligibility, requirements and other information required for land acquired for airport purposes is discussed in FAA Order 5100-38.

D. Documentation

Upon its acquisition, noise land or land for airport purposes must be shown on the Exhibit A, Airport Property Map to document airport ownership of the land for grant reimbursement. (For complex situations, the FAA may approve the use of a separate noise land map that is appended to the Exhibit A.)

E. Land Grant Assurance and Disposal Hierarchy

The AIP Handbook describes the land disposal requirements under 49 U.S.C., § 47107(c)(2), Grant Assurance 31. The sponsor is required to promptly dispose of AIP-funded land when the land is no longer needed for eligible current or planned airport purposes.

The Federal share portion of the proceeds on the sale of noise land or land for airport purposes must be reinvested in eligible airport projects and programs. Table 1 provides the order of reinvestment preferences described in Grant Assurance 31. Disposal of noise land and use of disposal proceeds is described in Sections 3 and 4.

Table 1. Order of Preference Applying Sale Proceeds of AIP Funded Land per 49 USC § 47107(c)(4)

Order	Order of preference to apply the Federal share of the fair market value is ...
1	Reinvestment in an approved noise compatibility project.
2	Reinvestment in an approved <i>project</i> that is eligible for funding under 49 U.S.C., § 47117(e). The only <i>projects</i> in this section of the law are projects eligible for noise and environmental set aside funding. A complete list of projects eligible for noise and environmental set aside funding is contained in the AIP Handbook, FAA Order 5100.38.
3	Reinvestment in all other approved airport development projects at the airport, that are eligible under 49 U.S.C., § 47114, 47115, or 47117.
4	Transfer to a sponsor of another public airport for a noise compatibility project at the other airport.
5	Payment to the Secretary for deposit in the Airport and Airway Trust Fund. (Send the ADO a check as directed by the FAA Office of Operational Services - FAA Accounts Payable Branch (AMZ-110) for deposit in the Airport and Airway Trust Fund.)

The allowable retention of noise land is described in Section 5 and environmental review to retain noise land indefinitely as airport land is described in Section 6 of this guidance.

If a sponsor proposes to convert acquired noise land to an airport use or to noise buffer land, the sponsor must then seek FAA approval to depict on the Airport Layout Plan (ALP). The sponsor must follow the requirements for submitting ALP changes to the FAA for ALP approval.

F. Special Condition for Noise Land Grants

All noise land grants must include the special grant condition to require sponsor submittal of a Noise Land Inventory and Reuse Plan to FAA. Starting in FY 2006 (as was stated in the former PGL 08-02), this special condition must be included in all noise land grants:

ACQUISITION OF NOISE LAND: The Sponsor agrees that as part of the land acquisition in this project, it will prepare or update a Noise Land Inventory Map and Reuse Plan to standards satisfactory to the FAA and submit said documentation in final form to the FAA. It is further mutually agreed that the reasonable cost of developing or updating a Noise Land Inventory Map and Disposal Plan is an allowable cost within the scope of this project.

G. Use of the Term “Noise Land”

Throughout this guidance, the term “Noise Land” means “AIP funded Noise Land.”

Section 2. Management of Noise Land

A sponsor must document its management of its noise land acquisition, disposal, and retention through the Noise Land Inventory and Noise Land Reuse Plan.

A. Noise Land Inventory

A sponsor must keep an up-to-date noise land inventory that accurately reflects all of the noise land parcels that were acquired with AIP grant funds.

The inventory fully accounts for all grant-acquired noise land. It is also a tool to help the sponsor manage and dispose of unneeded noise land in compliance with the FAA grant assurance. The inventory must be up to date and reflect the most current FAA accepted reuse plan. A copy of the noise land inventory must be kept with the latest Exhibit “A” Airport Property Map⁴ in the Airports District Office or Regional Office.

The inventory must list all acquired noise land parcels, identify assembled disposal parcels; and identify the grant under which the noise land parcels were acquired and the local land record identification (deed book and page) for sold parcels. Attachment A lists noise land inventory and map requirements.

B. Reuse Plan

The sponsor’s reuse plan identifies the proposed disposal or retention of all acquired noise land (noise land inventory) to date. All airport acquired noise land falls into one of the following categories with the reinvestment or conversion requirements noted, which are described in more detail in later sections.

- Sold. Market sale in fee (subject to compatible land use restrictions) and repayment of the Fair Market Value (FMV) of the Federal share to comply with the Grant Assurance. The reuse plan must note the FMV proceeds collected and reinvested. Noise land parcels that the sponsor “buys-out” the Federal share are included with the sold parcels.
- Exchange for Development Land. Reinvestment of the Federal share of appraised FMV is not required if the value of the exchanged land meets or exceeds the appraised value of the noise land. If the FMV of the development land is less than the FMV of the noise land exchanged, the Federal share of the difference is subject to reinvestment. Details of the land exchange must be provided for FAA approval.

⁴ See FAA Advisory Circular 150/5100.17 for Exhibit A specifications

- Pending disposal. Noise land parcels held on the inventory to be sold or exchanged for development land. The sponsor has ongoing noise land acquisition projects and continues to acquire and assemble land for airport compatible redevelopment. Noise land, cleared of incompatible development, may be leased out on an interim basis pending its assemblage and disposal or conversion.
- Noise Buffer. Conversion to airport owned noise buffer. Per 49 U.S.C. § 47107(c)(2)(A), noise buffer may be left undeveloped or developed to compatible land use. Noise land developed to compatible land use must be leased on a long term basis at the FMV of the land. FMV lease proceeds are airport revenue.
- Development Land. The noise land is used for AIP-eligible airport development land.

Attachment B provides a sample FAA Reuse Plan acceptance letter. Enclosure 1 of the sample letter provides a summary report of the sponsor's reuse plan that may be submitted to FAA for acceptance plans (initial and updated reuse plans).

Section 3. Disposal of Noise Land or Land Acquired for Airport Purposes

A. General Guidance for Disposal

An airport must dispose of unneeded noise land by market sale where there is no current or future airport use or the sponsor does not incorporate land for noise buffer. An airport must dispose of unneeded land acquired for an airport purpose when the land is no longer needed for an airport purpose (per title 49 U.S.C., section 47107(c)(2)(B)).

1. Clearance of Airport Use or Need

Noise land may only be cleared for sale if the land is no longer needed for noise compatibility or current or future airport development purposes. Airports must ensure that noise land pending sale or long term lease does not have any airport use or facilities located on the land. For example, if the noise land has an Automated Weather Observing Station (AWOS), then the AWOS facility must be relocated or decommissioned prior to sale.

2. Assembled Disposal Parcels

For a noise compatibility project, the airport will seek to acquire the majority of residences and residential lots in a noise impacted neighborhood. It is unlikely that individual acquired residential lots are feasible candidates for disposal or reuse until most of the lots within a neighborhood are acquired. Acquired residential lots cleared of homes are assembled into a useable marketable land parcel for market sale and redevelopment to compatible land use.

3. Reviewing Current Market Conditions When Considering Disposal

Generally, unless an airport is acquiring additional needed parcels to have a developable larger parcel, airports must not delay the disposal of unneeded land. An airport must diligently pursue the assemblage of the parcels in order to complete the disposal of noise land as soon as it is practical to do so.

There may be compelling reasons for a short-term delay in disposal by sale of noise land or land acquired for airport purposes, such as a depressed real estate market where there is little or no sale potential at acceptable prices. In those cases, the airport must provide a market analysis and plan to the FAA, and then schedule a follow-up review to evaluate market conditions.

B. Reserving Adequate Property Rights to Prevent Incompatible Land Use

Grant Assurance 31 requires on the sale of noise land or any release and sale of airport land that the airport must retain sufficient property rights and control of the land sold so that its use and development will always be compatible with airport operations.

Therefore, for any sale of land the sponsor must retain adequate property rights including, but not limited to, an adequate easement, deed restriction, covenant, or other property right or reservation. This is to ensure the land will not be put into incompatible land use or conflict with the airport's use, operation or development.

Attachment D provides sample land development and use restrictions for a retained easement on the sale of land. The retained property rights must be enforceable and recorded in the local public land records. When the airport sells or otherwise transfers title to the property, the sponsor must certify to FAA that the property is adequately restricted to prevent incompatible development or use that might conflict with the airport operations. In the case of a long term lease of noise buffer, the airport may need to use similar provisions in the lease to ensure airport compatible land use and protect against incompatible land use or development.

C. Acceptable Disposal Methods

Grant Assurance 31 requires that an airport owner or operator dispose of unneeded noise land at FMV as early as is practical after the determination that the land is unneeded. The Federal share of the FMV value of the land (including any increase over appraised FMV) is the disposal proceeds. The Federal share of the sponsor funded eligible sale and development expense may offset against disposal proceeds. Appraisal requirements are described in Section D. below.

1. Market Sale at the Highest and Best Use of the Property

The sponsor must obtain the highest and best compatible use of the land. Property must be appraised and the sale will be offered at the appraised FMV of the property subject to the airport's retained rights.

Marketing and sale procedures must be competitive to seek the highest market price on the sale of the property. Generally, a land sale must be adequately advertised and exposed on the market to solicit and secure the FMV of the property. The FAA expects that the accepted sale price on a negotiated sale to be at least the appraised value. A sponsor may hire a commercial real estate broker to market a property and secure a FMV sale of the property.

If a negotiated sale is unsuccessful (or if required by law), a sponsor may use other competitive land sale procedures, including sale by auction or by bid. An auction or bid sale must be adequately advertised to solicit all potential buyers and the sponsor must reserve the right to reject any bid that is not considered to reflect FMV.

2. Exchange of Noise Land for AIP-Eligible Airport Development Land

Noise land may be exchanged for land that is needed for future AIP-eligible airport development. Appraisals must be made to determine the FMV of both parcels. If the noise land has a higher value than the land that the sponsor will receive, then the Federal share of the difference in value is treated as disposal proceeds.

Example: A sponsor has unneeded noise land with an appraised FMV of \$500,000 (Federal share of 80 percent of the total or \$400,000). An adjacent property owner is willing to purchase the noise land parcel for \$150,000 in cash plus conveyance of a land parcel appraised at \$350,000 FMV needed by the sponsor for a future AIP-eligible runway extension shown on the FAA-approved ALP.

As detailed below, conforming to disposal requirements the sponsor may exchange the unneeded noise land for the future airport development land; plus \$150,000 cash for shortfall in value with reinvestment of the Federal share of the cash payment received.

Land Exchange:

Appraised FMV Airport Noise Land Conveyed =	\$500,000
Less Appraised FMV Land Conveyed to Airport for Development=	<u>\$350,000</u>
Cash Required for Shortfall from FMV of Airport Noise Land=	\$150,000

Federal Share of Exchange Proceeds:

FMV Development Land Gained @ 80% of \$350,000=	\$280,000
Federal Share of Cash @ 80% of \$150,000=	<u>\$120,000</u>
Federal Share Disposal Proceeds @ 80% of \$500,000=	\$400,000

3. Exchange to Clear Local Funded On-Airport Land for Eligible Airport Development

A sponsor may relocate airport development that is located on locally-funded airport land that is not AIP-eligible onto noise land to allow planned AIP-eligible

development to be constructed on the airport land that was previously occupied by the non-AIP development (e.g. relocate a car rental facility off the airport). The proposed AIP development must be shown on a current ALP as near-term development.

For an acceptable disposal of the noise land the airport land exchanged must not have been acquired with Federal funds or have been Federal surplus land conveyed to the airport. Only locally-funded airport land converted to eligible development may be accepted as proceeds on the exchange and disposal of acquired noise land.

Both the noise land and the airport land are appraised to determine the current FMV for the exchange. The airport land is appraised as vacant land for an aeronautical use only, exclusive of any improvements that are on the property. If the appraised FMV of the noise land exceeds the appraised value of airport land, the excess FMV amount is considered disposal proceeds that must be repaid/credited in accordance with the assurance requirements. See the example above on the Federal share of cash proceeds required on the exchange of higher valued noise land.

4. Sponsor/Owner Buy-out of Federal Interest

A sponsor/owner may remove the Federal interest in disposal parcels by reinvesting the parcels' appraised FMV into eligible projects in accordance with the grant assurance (see Section 4). The amount required will be the Federal share of the appraised FMV of the disposal parcel as described below.

5. Exchange for Ineligible Land Use

If a sponsor exchanges noise land for ineligible purposes, the exchange is considered a disposal and the Federal share of the appraised FMV of the noise land conveyed must be reinvested in accordance with the grant assurance.

D. Appraisal Requirements

Grant Assurance 31 requires that a sponsor have the disposal parcel appraised for current FMV pending its sale, exchange or for credit of Federal share. Attachment C is a sample scope of work the sponsor may use to solicit acceptable appraisal reports from qualified real property appraisers. The following describes the appraisal requirements for the raw land and property that has been approved for redevelopment by local zoning and land development authorities.

1. Property Sold in Raw Land State

If the property has not yet been approved for development by the local land use/development authority, the land is appraised as "raw land" anticipating redevelopment as the highest and best use of the land. The current appraised

value of raw land will reflect the market cost of land for subsequent redevelopment to the highest and best use of the land. No subsequent development costs may be deducted from the raw land value.

2. Sale of Redeveloped Land

If the property has been approved for development (which developers may call the “entitlement stage”), the property is appraised as developable and buildable land. The reasonable costs to obtain development approvals, deemed permitting costs, may be offset against the sales cost.

In no case may the cost offsets lower the value of the land below its appraised raw land value. Excessive development costs do not conform to the FMV standard required by the grant assurance and are not acceptable to FAA.

Example: An airport has 100 acres that have been approved for development at a highest and best use as industrial property. The costs for permitting to reach this stage are \$50,000. The appraised “approved for development” value of the 100 acres is \$9,000 per acre, or \$900,000 total. The appraised “raw land” value is \$3,000 per acre, or \$300,000 total.

The permitting costs, \$50,000, are deducted from the \$900,000, netting \$850,000 for the sale. The Federal government share of the proceeds is taken from the \$850,000.

Example: A sponsor has 100 acres, but due to a variety of factors, the costs for permitting to reach this stage are \$650,000. The appraised “approved for development” value of the 100 acres is \$9,000 per acre, or \$900,000. The appraised “raw land” value is \$3,000 per acre, or \$300,000.

The permitting costs, \$650,000, are deducted from the \$900,000, netting \$250,000 for the sale. However, because this is below the raw land value, the Federal government share of the proceeds is based on the raw land value of \$300,000.

3. Previously Sold Property

Land that has previously been disposed of (sold or exchanged) must be appraised at the historic value of the land as of the past sale, lease, or exchange date. The land is appraised at its highest and best use and stage of development when sold or exchanged. Reasonable lot development costs incurred may offset against the FMV, although offsets may not reduce the land value below its raw land value as discussed above.

The appraisal must conform to “retrospective appraisal” standards as described in Attachment D, Sample Appraisal Scope of Work.

This appraised FMV must then be advanced forward to the present date by applying the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index—All Urban Consumers.⁵ This updates the land value from a historic date when payback was due to the current value as required to satisfy the grant assurance.

If the Federal share for AIP grants has changed since the land was disposed of, the calculated value due to the AIP program through project work or other means must not exceed either the current share that is in effect, or the historical value of the Federal share at the time of disposal.

E. Eligible Disposal Expenses

Generally, demolition and other direct costs (marketing/sales expense, etc.) that are not included with the land acquisition grant and are incurred by the sponsor to prepare the land for actual sale may be an eligible offset against disposal proceeds of cleared development land, at the same Federal share that participated in the noise land acquisition. Development cost to develop buildable lots (i.e. reasonable expenses for marketing, permitting, planning, platting, intract infrastructure, etc.) offsets may not reduce net sale proceeds below the appraised raw land FMV described above.

Costs to hold land pending its disposal and indirect costs are not eligible disposal expenses and may not be used to offset disposal proceeds. These types of costs include the costs for maintaining the property such as lawn mowing, guard services, and administrative staff costs. Also, costs that have been previously reimbursed in any Government assistance grant or unreimbursed expenses from the original land acquisition grant (such as unreimbursed settlement or condemnation expenses) may not be used to offset the Federal share of disposal proceeds (see Section 4 for allowable reinvestment and application of disposal proceeds to eligible projects and expenses).

⁵ The applicable Treasury rate and instructions may be found at: <http://www.fms/treas.gov/cvfr/>.

Section 4. Use of Disposal Proceeds for Disposal of Noise Land or for Disposal of Land Acquired for an Airport Development Purpose

Grant Assurance 31 incorporates the requirements for land disposal from Section 135 of FMRA, codified in 49 U.S.C., § 47107(c)(2), which applies to both land acquired for noise compatibility or for airport development. It sets a hierarchy for the use of the proceeds from the disposal of the land. This required order of preference is:

- (1) Reinvestment in an approved noise compatibility project,
- (2) Reinvestment in an approved *project* that is eligible for funding under title 49 U.S.C., § 47117(e). The only *projects* are contained in Paragraph 4-6,
- (3) Reinvestment in all other approved airport development projects at the airport,
- (4) Transfer to a sponsor of another public airport for a noise compatibility project at the other airport, or
- (5) Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

The Assurance also requires that the disposal of unneeded noise land be done quickly. It is critical that the proceeds be used promptly to satisfy the intent of the assurance (earliest practicable time). The sponsor must use the proceeds to reduce the Federal share of new eligible projects or replace Federal funds in eligible work. The allowable reinvestment of the Federal share of disposal proceeds is discussed below.

A. Use of Proceeds for an AIP-Eligible Project

The disposal proceeds may be used for AIP-eligible projects in lieu of AIP grant funds and may be combined with AIP grant funds if there are insufficient disposal proceeds to fund the project.

When using land proceeds for an AIP-eligible project, the proceeds must be listed separately from any grant funding on the grant application form. The proceeds are a direct offset from the amount of Federal funds that would normally be used for the grant. Therefore, the combination of land funds and grant funds will equal the Federal share for the proposed project. The Federal share of disposal proceeds may replace Federal funding, but may not be used as the local share of Federally funded projects.

Example: Sponsor A is planning a \$1,000,000 AIP-eligible project. The Federal share at the airport for the project is 75 percent, or \$750,000. The sponsor has \$50,000 in land proceeds (Federal share) to fund a portion of the project.

Therefore, the amount of grant funds will be \$700,000, which combined with the land proceeds will equal the total Federal funding for the project. In order to keep track of the use of land proceeds, the land proceeds must be listed on Block 15.e Other, with an explanatory note added:

15. ESTIMATED FUNDING:	
a. Federal	\$ 700,000.00
b. Applicant	
c. State	Source of sponsor share \$250,000 will be determined by the sponsor, but may not be from the Federal share of proceeds from disposal of noise land
d. Local	
e. Other	\$50,000.00* *Federal share of proceeds from Disposal of Land
f. Program Income	
g. TOTAL	\$1,000,000.00

Example: Sponsor A is planning a \$1,000,000 AIP-eligible project. The Federal share at the airport for the project is 75 percent, or \$750,000. The sponsor has more than \$750,000 in land proceeds (Federal share) that may be used to fund the Federal share of the project. In order to keep track of the use of land proceeds, the land proceeds must be listed on Block 15.e Other, with an explanatory note added:

15. ESTIMATED FUNDING:	
a. Federal	\$ 0.00
b. Applicant	
c. State	Source of sponsor share (\$250,000.00) will be determined by the sponsor, but may not be from the Federal share of proceeds from disposal of noise land
d. Local	
e. Other	\$750,000.00* *Federal share of proceeds from Disposal of Land
f. Program Income	
g. TOTAL	\$1,000,000.00

B. Credit of Land Disposal Proceeds to Eligible Local Funded Expenses

Proceeds may supplement Federal funds for AIP-eligible noise compatibility purposes or lacking eligible projects, proceeds may be applied to local (non-Federal) funded AIP-eligible expenses, not to exceed the Federal funding share of the eligible noise compatibility work (currently 80 percent). Disposal proceeds may not be applied as local share of eligible work cost.

To preclude conflict with funding and budget processes, allowable local costs to credit noise land disposal proceeds must have been incurred within the past 6 years of the date of disposal and no earlier than the AIP funded purchase of the land disposed. The disposal proceeds credited against allowable local funded costs are considered to be airport revenue and corresponding disposal-related expenditures must be compliant to revenue use requirements. Contact ACO-1 for clarification of allowable airport revenue, expenditures, and accounting and reporting requirements.

For example, suppose the airport has a locally funded sound insulation program with a total eligible cost expended over the past 6 years of \$1,250,000. A 5-acre disposal parcel of noise land has been assembled from 20 residential lots acquired 10 years ago with AIP funds. The 5-acre disposal parcel is sold at the appraised FMV of \$1,260,000. The 80 percent Federal share of the FMV sales price is \$1,008,000. Allowable sales expenses (appraisals, platting) totaled \$10,000 of which the 80 percent Federal share or \$8,000 may be deducted to yield net creditable disposal proceeds of \$1,000,000. The net proceeds are credited against the \$1,250,000 total local cost of eligible sound insulation expenses incurred on the airport's approved Part 150 NCP reflecting the current allowable Federal share at 80 percent of eligible cost. The actual disposal proceeds on the sale of airport land are airport revenue and the accountability for expenditures on allowable costs must be compliant with applicable revenue use and reporting requirements.

C. Transferring Disposal Proceeds to another Airport

If disposal proceeds from land have not or cannot be reinvested in AIP-eligible project expenses at the airport, the Federal share of the FMV of the proceeds may be transferred, with FAA approval, to another airport noise project at another airport. This is similar to current AIP policy on transferring entitlements.

Section 5. Retention of Noise Land or Land Acquired for Airport Purposes

Noise land may be retained and be converted to airport development land or noise buffer. Retained land is no longer noise land, but is obligated airport land (i.e. sponsor retains fee title to the land indefinitely for airport use.)

The retention and conversion of noise land to airport use requires the sponsor to modify the ALP and submit the ALP change to FAA for review and approval. The FAA ALP change approval requires an environmental determination in accordance with FAA Order 5050.4. Any subsequent change in the use or sale of the incorporated airport land will require an airport land release and FAA approvals in accordance with the Airport Compliance Handbook FAA Order 5190.6.

A. Conversion to AIP-Eligible Airport Development Land

Noise land may be retained and used for AIP-eligible airport development (development land). In this case, airport development is defined as development that is depicted as future airport development land on the FAA-approved ALP for projects that are eligible for AIP grant funds.

Retained land may be used for a runway protection zone (RPZ), needed to protect missed approach surfaces, or used for a near-term runway extension or other AIP-eligible uses. When reviewing whether noise land parcels may be needed for development land, the sponsor must consider the future development of the airport and airfield, including that which can reasonably be expected within the next 20 years.

B. Conversion to Noise Buffer

Noise land may be converted to noise buffer and incorporated into airport property. Noise buffer land cleared of incompatible development and use may be left undeveloped. Alternatively, it may be developed to an airport compatible land use.

Noise buffer land may be leased to third parties (private or public) on a long-term basis (e.g. greater than 25 years) for airport compatible development (nonaeronautical use, commercial/industrial, etc.) at fair market rent and lease terms. Fair market rent must be appraised based on the highest and best use of the retained noise land for compatible market development. Appraisal requirements are described Section 3.D.1.

A long-term lease of noise buffer land for airport compatible land use is not a disposal that requires reinvestment of proceeds. Fair market rent receipts are airport revenue and are applied to eligible airport uses in compliance with FAA airport revenue requirements.

There is no grant eligibility to acquire or exchange noise land for noise buffer land.

Canceled

Section 6. FAA Oversight of Noise Land

Sponsors must follow these steps to ensure sponsor disposal of airport noise land is in accordance with Grant Assurance 31 (title 49 U.S.C., § 47107(c)(2)(A)).

The airport's Exhibit 'A' Property Map must include all the noise land it had acquired with AIP funds. The sponsor must maintain a current Noise Land Inventory and Reuse Plan for submission to FAA for review and acceptance. For complex airport noise projects, the Exhibit 'A' may reference a separate Noise Land Inventory Map. Attachment B provides a sample FAA letter for acceptance of the sponsor's inventory and reuse plan.

A. FAA Review of Noise Land Inventory

The FAA reviewer must first confirm that all AIP-funded noise land parcels are listed on the Noise Land Inventory or Exhibit 'A' (see Attachment A for needed land acquisition information). The submitted inventory must list all acquired parcels and their associated AIP grant numbers.

Additionally, FAA will review and approve needed changes that are made to the Exhibit 'A' to incorporate the accepted Noise Inventory and Reuse Plan, including:

- Airspace or other land use restrictions retained by the airport on unneeded land disposed (sold/exchanged),
- Noise land converted to airport development land, retained as noise buffer or for airport development land gained on an exchange of noise land.

The Region may delegate the FAA review and concurrence (or nonconcurrence) to the ADO. If the responsibility for the review and approval/disapproval the sponsor's ALP and the Exhibit "A" Airport Property Map has been delegated to the Block Grant State officials, the oversight of noise land is also the responsibility of the Block Grant State.

B. FAA Review of the Reuse Plan

FAA must review the Reuse Plan and accept it if the proposed disposal or retention of the noise land parcels meet applicable criteria. Accepting the retention of noise land for AIP-eligible development land must be based on the accepted forecasts for the airport, as well as the FAA-approved ALP. The sponsor may opt to retain noise land as noise buffer land as described in Section 5.B.

FAA must review and accept or not accept the proposed means of disposal—by sale, lease or exchange. If the FAA does not accept the proposed means of disposal, the FAA will notify the sponsor and the sponsor may revise the proposal. The sponsor must show reasons to continue to hold land pending disposal, such as a depressed market or an ongoing incomplete acquisition program.

For the disposal of noise land or retention of noise buffer the FAA review must ensure:

- Adequate property rights (easement/deed restrictions) are retained by the airport to prevent incompatible use or development of the land disposed.
- Sale, lease, or exchange of the unneeded land will be at the FMV, and;
- Sale proceeds will be reinvested in an FAA-approved AIP project or eligible expense (see Section 4.B.) and long term lease proceeds are credited as airport revenue.

C. Environmental Review

The FAA is responsible for identifying major Federal actions involving an airport that is in the National Plan of Integrated Airport Systems. After determining that the sponsor is proposing a major Federal action, FAA is responsible for analyzing the environmental effects of that action.

Noise land work efforts that generally will require an environmental review are:

- AIP funding of a noise land acquisition project,
- FAA approval of an ALP to add noise land to the Exhibit A or a Noise Land Inventory,
- FAA approval of projects to convert noise land to airport development land, including FAA approval of an ALP to show the new land use.

Noise land work or airport purpose land efforts that generally do not require an environmental review are:

- FAA review of noise land that was acquired as part of a 14 CFR, part 150 program or an environmental mitigation measure,
- A sponsor's disposal of land via sale or other means that removes the land from the Exhibit A or Noise Land Inventory,

Some of these land actions and their relationship to an environmental review are discussed in the following paragraphs.

1. Prior Acquisition Approval

Frequently, revising an ALP requires an environmental assessment before the ALP can be approved by the FAA. Except in unusual circumstances, the sponsor is not required to conduct a separate environmental assessment in order for FAA to revise its ALP to show land that it has acquired. This is because the sponsor generally will have received environmental approval during the preparation of the 14 CFR, part 150 Noise Mitigation Program or the environmental assessment for the project which identified the need to acquire land.

2. Disposal of Unneeded Land

A sponsor's disposal of land does not require environmental review if the disposal removes the land from the airport property.

3. Retention and Conversion to Development or Noise Buffer; or Exchange for Development Land

The sponsor's disposal of land does require environmental review if the disposal does not remove the noise land from the airport property, but instead converts it to airport development land, noise buffer land, or is part of an exchange to incorporate airport development land.

D. FAA Acceptance of Noise Land Inventory and Reuse Plan

Upon completing a satisfactory review of the Noise Land Inventory and Reuse Plan, the FAA reviewing office will issue an FAA acceptance letter to the sponsor accepting the submitted documentation as meeting FAA standards (see Attachment B). The acceptance letter must also require the sponsor to keep the Noise Land Inventory and Reuse Plan current by revising and resubmitting the Noise Land Inventory for any new acquisitions, disposals, or other changes to the Inventory or Plan.

Depending on the size and scope of its noise compatibility programs and projects, the sponsor may maintain its Noise Land Inventory Map on its existing Geographic Information System and submit map updates on appropriate digital media or via web based documentation. The FAA will verify the Inventory and Plan periodically on visits and field inspections at the airport.

Sponsors will need to update their inventory and reuse plans as additional noise land is acquired under AIP grants or is disposed of. Once all noise land inventory is disposed or acceptably retained as obligated airport land, the sponsor has completed its obligation for management of acquired noise land.

Attachment A: Requirements for Noise Land Inventory

To verify airport ownership and AIP reimbursement of acquired noise land, each disposal parcel shall clearly be shown on a Noise Land Inventory Map and referenced to the parcel numbers of the acquired noise land reimbursed, as found on the Exhibit 'A' property map. For complex airport noise projects, the Exhibit 'A' may reference a separate Noise Land Inventory Map.

The following information needs to be included to accurately identify all AIP funded noise land parcels.

1. Parcel Number (sponsor ID number)

2. AIP Grant Number under which the parcel was acquired, and Federal share for the AIP grant (generally 80 percent for large or medium hub airports, 90 percent or 95 percent for all others).

3. An aerial photograph or map identifying all the acquired parcels.

4. Reference to current accepted noise contours for the airport. (These contours may be from the sponsor's most current documentation that meets FAA map preparation requirements. For example, FAA-accepted part 150 Noise Exposure Maps (NEMs), NEPA project contours from an FAA-issued EIS, or airport-generated annual contours used to meet state or local reporting requirements).

5. Current reuse/disposal designation. Reference the current FAA-accepted reuse plan and note the category (disposed by sale or exchange, retained for development, or noise buffer).

6. For disposed parcels (sold or exchanged) show the sale recording information (deed book and page, APN for disposal parcel, etc.) and the date of FAA approval.

7. For retained land (converted to airport development, exchange development land gained, or noise buffer) reference the date of FAA ALP change approval.

Canceled

Attachment B. Sample Noise Land Re-use Plan Acceptance Letter



U.S. Department
of Transportation
**Federal Aviation
Administration**

Region
Airports Division

Mailing Address

Date

Sponsor

Re:
Noise Land Reuse Plan Acceptance

Dear Sponsor:

We have reviewed your Noise Land Reuse Plan (Reuse Plan), submitted by NAME, TITLE on DATE . [OR ADD AS APPLICABLE, which updated the original Reuse Plan submitted on DATE]. This submittal includes comments of the Federal Aviation Administration's (FAA) Airports District Office (ADO) and their discussions with your staff. The Reuse Plan is retained with the FAA ADO/Region permanent grant records.

The FAA has reviewed the submitted Reuse Plan documentation against the requirements of Grant Assurance 31, *Disposal of Land*, and FAA Office of Airports Planning and Programming Technical Guidance, *Management of Acquired Noise Land: Inventory – Reuse – Disposal*. Enclosure 1 is a summary of the submitted reuse plan.

We have reviewed the reuse plan and find it to be acceptable, based on the following:

- Our records show that the FAA has awarded \$X,XXX,XXX in Airport Improvement Program (AIP) grants for the acquisition of land for noise compatibility purposes at SPONSOR Airport (the Airport).
- The Inventory and Reuse Plan submitted by the Airport on DATE, indicates a total of X acres of AIP acquired noise land. The submitted Noise Land Inventory and Reuse Plan is accepted as is verified (verifiable) against actual acquisition records and the total acreage acquired shown on the grant Exhibit A's for the issued FAA land acquisition grants.

- The sponsor must retain enforceable rights in the land conveyed including, but not limited to, an adequate easement, deed restriction, covenant, or other property right or reservation to ensure the noise land will not be put into incompatible land use or conflict with the airport's use, operation, or development. The Sponsor's attorney will certify to FAA that adequate rights have been retained on any noise land sold, exchanged or leased long term. Attachment D to the FAA Office of Airports Planning and Programming Technical Guidance contains some sample language for retained property rights.
- For noise land converted to AIP-eligible development or noise buffer the Airport must revise the Airport Layout Plan (ALP) approved DATE IN THE PAST, and associated Airport Property Map to reflect any changes to the airport boundaries. These documents must conform to the requirements of the FAA for an acceptable ALP and Airport Property Map (see FAA AC 150/5070-6B, Regional Guidance, other ongoing project scope). FAA approval of the revised ALP will require an FAA environmental review in accordance with FAA Order 5050.4.
- Following agreed procedures in Section 5 and applicable Federal financial management requirements, the Federal share of all disposal proceeds must be accounted separately from other funds and applied to eligible airport projects as soon as feasible. The Airport must report all sales and proceeds collected and the allocation of proceeds held to eligible airport projects on a quarterly basis to the FAA ADO/Region or as subsequently agreed.
- The Airport and FAA will consider the appropriate disposal of noise land in its ongoing airport noise compatibility, planning and development programs to ensure continued compliance to grant assurances. The inventory and reuse plan will be updated for completed disposals and the use of the Federal share of disposal proceeds (see Attachments B and C). Any noise land acquisition or disposals require compliance to the following Special Grant Condition and further FAA direction as necessary to maintain compliance.

ACQUISITION OF NOISE LAND: *The Sponsor hereby agrees that upon completion of the land acquisition in this project, it will prepare a Noise Land Inventory and Reuse Plan to standards satisfactory to the Federal Aviation Administration (FAA) and submit said documentation in final form to the FAA. It is further mutually agreed that the reasonable cost of developing said Noise Land Inventory and Reuse/Disposal Plan is an eligible administrative cost for participation within the scope of this project.*

Thank you for your cooperation and if there are any questions about these requirements, or if you require any assistance for your noise land management please contact FAA ADO/Region program manager.

Sincerely,

Enclosure

Canceled

Canceled

Enclosure 1: Reuse Plan Summary

Airport: _____ Reuse Plan date: _____

1. Total Acquired Inventory All noise land acquired as of DATE: _____	ACRES: _____	
Land sold/disposed	Acres	Dollars \$
Sold/Buy-Out Acreage <i>Note FMV Proceeds</i>		\$
Exchange Acreage <i>Note Value of Land Gained</i>		
To be Sold / Exchanged <i>Note agreed time frame and reason land is being held.</i>		Estimated \$
2. TOTAL Disposed (acres and \$ receipts)		\$
Converted to Noise Buffer	Acres	Use description
Undeveloped Acreage		
Developed / Long Term Leased Acreage		
Eligible Airport Development	Acres	Use description
Eligible Current Development		
Eligible Future Development		
TOTAL Reuse Acreage		
3. Total Reuse Acreage		
Total Disposal and Reuse Acreage		MUST EQUAL INVENTORY ACREAGE

Cancelled

Attachment C: Appraisal Scope of Work

The property to be appraised is roughly X acres of land located at _____ . Attached are the legal description and a copy of the plat of the property (and, if applicable, a copy of the proposed lease). The sponsor currently owns (or had owned or leased) this property in fee and the real property will be conveyed or leased subject to the identified retained real property rights and encumbrances (see Assumptions and Limiting Conditions).

This appraisal of the property is subject to the following scope of work, intended use, intended user, definition of market value, certifications and statement of assumptions, and limiting conditions. The appraiser may expand the scope of work to include any additional research or analysis determined necessary for a credible appraisal of the fair market value of the subject property and to meet the identified standards and requirements.

SCOPE OF WORK: The appraiser will provide an appraisal and appraisal report in accordance with Uniform Standards of Professional Appraisal Practice (USPAP) and FAA requirements. The appraiser must, at a minimum:

- Inspect the neighborhood and local area noting utility and transportation infrastructure to the extent required for the highest and best use of the property.
- Adequately describe the physical characteristics of the property being appraised including known and observed encumbrances, title information, location, zoning (current, proposed, and probability of rezoning), present use, stage of development, concurrency with local and regional land use plans, an analysis and supported determination of highest and best use, and adequate sales history of the property (e.g. when acquired, amount paid, etc).
- Adequately describe and analyze all relevant market data and activity as of the date of value.
- Inspect, research, analyze, and verify comparable sales with public sources and with a party to the transaction, buyer, seller or broker, or attorney.
- Appraise the current fair market value of the property, as defined below. If the property is to be appraised based on a date in the past, the “retrospective appraisal” specification must be met by the appraiser (see Assumptions and Limiting Conditions).

- Analyze current or proposed leases, if any, and prepare an estimate of the leased fee value of the property. Explain any variance between the leased fee and the fee simple market value of the property, if any.
- Report the appraiser's analysis, opinions, and conclusions in the appraisal report. The appraisal report must include the plat or a sketch of the property and provide the location and dimensions of any improvements. The appraisal report must include adequate photographs of the subject property and of the comparable sales and provide location maps of the property and comparable sales.
- The appraisal report must contain an adequate description of the physical characteristics of the property being appraised including items identified as personal property, a statement of the known and observed encumbrances, title information, location, zoning (current and proposed), present use, stage of development, concurrency with local and regional land use plans, an analysis of highest and best use, and adequate sales history of the property (e.g. when acquired, amount paid, etc).
- The land must be appraised at an economic highest and best use as described in the Uniform Appraisal Standards for Federal Land Acquisitions at paragraph A-14, *Analysis of Highest and Best Use* (see <http://www.usdoj.gov/enrd/land-ack/yb2001.pdf>). As applicable, the appraiser in valuing the market value of the airport land shall consider the development potential of airport land parcels considering the location of airport land and any potential plottage with adjoining development land.

INTENDED USE: The intended use of this appraisal is to provide an appraised current fair market value (or as of the date of value specified for a retrospective appraised fair market value) of the fee simple and leased fee interest, as is applicable.

INTENDED USER: The intended user of this appraisal report is the sponsor and the FAA. The sponsor and FAA will rely on the appraisal and appraisal report to document the current fair market value of the real property.

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- Buyer and seller are typically motivated;
- Both parties are well informed or well advised, and each acting in what he or she considers his or her own best interest;

- A reasonable time is allowed for exposure in the open market;
- Payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and
- The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

CERTIFICATION: The appraiser must provide a certification consistent with USPAP requirements. Modifications or deletions to the certifications are not permitted. However, additional certifications that do not constitute material alterations to this appraisal report, such as those required by law or those related to the appraiser's continuing education or membership in an appraisal organization are permitted.

ASSUMPTIONS AND LIMITING CONDITIONS: The appraiser must state all relevant assumptions and limiting conditions necessary. In addition the (sponsor) may provide other assumptions and conditions that may be required for the particular appraisal assignment, such as:

- The data search requirements and parameters that may be required for the assignment;
- The (sponsor) will advise and provide the appraiser the legal description of the airports retained property rights (recorded or to be recorded), e.g. easements, deed restrictions, or other restrictions and encumbrances on the property to protect and enhance airport operations and to acknowledge and protect overflight of the property. The appraiser must appraise the market value of the property subject to the airport retention of the described property rights;
- Identification of the technology requirements, including approaches to value, to be used to analyze the data;
- Needed soil studies, potential zoning changes, etc;
- As applicable, include any information on property contamination to be provided and considered by the appraiser in making the appraisal; or
- Retrospective Appraisal Requirements: If a value for a date or event in the past is required (e.g. as of past lease date or disposal date) the following specification must be inserted into the scope of work:

The date of value for this appraisal is (specific date in the past). This appraisal assignment is for a “retrospective” appraisal of the fair market value of the fee simple interest in the property as of (specific date in the past). In conformance to USPAP⁶, market data subsequent to this effective date may be considered in developing a retrospective value as a confirmation of trends that would reasonably be considered by a buyer or seller as of the date of value. For this retrospective appraisal, the appraiser will determine a logical cut-off date after which subsequent market data does not reflect the relevant market as of the date of value. The appraiser must study and report the market conditions as of the date of value of the appraisal to support this determination of the cut-off date for consideration of market data. In the absence of evidence in the market that data subsequent to the effective date is consistent with and confirmed market expectations as of the date of value, the date of value of (specific date in the past) may be used as the cut-off date for data considered by the appraiser.

⁶ Statement of Appraisal Standards #3, Retrospective Value Opinions, Uniform Standards of Appraisal Practice, Appraisal Foundation

Attachment D: Sample Retained Airport Compatible Land Use Property Restrictions

These covenants must run with the described land conveyed, for the benefit of the GRANTOR and its successors and assigns in the ownership and operation of the AIRPORT.

1. The Airport Authority reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the real property, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in said airspace, and for use of said airspace for landing at, taking off from, or operating from Airport.
2. The Airport reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of entry onto the real property herein conveyed to cut, remove, or lower any building, structure, poles, trees, or other object, whether natural or otherwise, of a height in excess of Federal Aviation Regulation (FAR) Part 77 surfaces relating to Airport. This public right must include the right to mark or light as obstructions to air navigation, any and all buildings, structures, poles, trees, or other object that may at any time project or extend above said surfaces.
3. Grantee expressly agrees for itself, its successors and assigns that the Property only be used for purposes that is compatible with noise levels of airport operations. The Property must not be used for residential purposes, which purposes include single family, multifamily or mobile home development; for educational facilities (as described in state law); or other noise sensitive land use not compatible with airport noise as described in 14 Code of Federal Regulations Part 150, as amended.
4. The grantee expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth, and other obstructions on the property to a height which does not exceed the height requirements set forth in Part 77 of the FAA Regulations, as amended, or any similar regulations which may hereinafter be enacted relating to the Airport.
5. The grantee expressly agrees for itself, its successors and assigns, to file a notice consistent with requirements of FAR Part 77 (FAA Form 7460-1) prior to constructing any facility, structure, or other item on the land described above.
6. The grantee expressly agrees for itself, its successors and assigns, to not hereafter use, permit, or suffer use of the land described above in such a manner as to create electrical interference with radio communication between the

installation upon the airport and aircraft or as to make it difficult for fliers to distinguish between airport lights and others, or as to impair visibility in the vicinity of the airport, or as otherwise to endanger the landing, taking off, or maneuvering of aircraft.

7. The grantee expressly agrees for itself, its successors and assigns, to not hereafter use, permit, or suffer use of the land described above in such a manner as to create a potential for attracting birds and other wildlife which may pose a hazard to aircraft.

[8. etc... Plus other retained rights, or controls or restrictions on the land conveyed that FAA concurs does not affect and does not conflict with grant obligations on the disposal of unneeded noise land.]

The aforesaid covenants and agreements must run with the land, as hereinabove described, for the benefit of the Sponsor and its successors and assigns in the ownership and operation of the Airport.

Conveyance procedures must incorporate applicable requirements under state and local law to ensure enforceable property rights are retained by the airport to prevent incompatible land use.