

Appendix A



Memorandum

Date: 11 March 2015

Subject: Ken Jernstedt Airfield – Draft Master Plan Environmental Conditions Inventory

From: Scott Bucklin and Dustin Day, BergerABAM

To: Matt Rogers, Century West Engineering

Route to: Scott Keillor, BergerABAM
David Miller, Century West Engineering

Ken Jernstedt Airfield (airport) is located at Airport Drive, east of Tucker Road (OR 281), south of the City of Hood River, Oregon. The airport is located outside city limits in Hood River County (County) in portions of sections 11A and 11B, Township 2 North, Range 10 East, Willamette Meridian. The airport and associated property include tax lots 1000, 1100, 2200, 2501, 2503, 2501, and 2600.

BergerABAM reviewed existing studies and secondary source data to assess the environmental factors related to airport development. This technical memorandum summarizes the findings of our review. A summary of the findings follows and the attached figure shows the locations of the airport and significant features of the surrounding landscape.

1.0 THREATENED AND ENDANGERED SPECIES

The sources consulted for this review included species lists obtained from the websites of the U.S. Fish and Wildlife Service (USFWS) (<http://ecos.fws.gov/ipac/>) and National Oceanic and Atmospheric Administration (NOAA) Fisheries (http://www.westcoast.fisheries.noaa.gov/maps_data/species_population_boundaries.html) on 16 January 2015. In addition, BergerABAM reviewed an Endangered Species Act (ESA) finding of no effect, dated 23 March 2010, from Pacific Habitat Services, Inc. (PHS) for the 2010 taxi runway relocation and runway extension project.

Species listed under the ESA that are addressed in this memorandum are shown in the table below. According to the data obtained from USFWS and NOAA Fisheries, there are no known listed species occurrences and no designated critical habitat for any species on airport property.

Hood River County online GIS maps identify Cedar Creek and Alder Creek (a tributary to Cedar Creek) within the airport boundary. According to the fish distribution data on the Oregon Explorer website (<http://oregonexplorer.info/>), Cedar Creek and Alder Creek are not accessible to fish because there is a fish barrier near the confluence of Cedar Creek with the Hood River. Therefore, it is assumed that ESA-listed species would not be present within the streams at the airport. However, if a stormwater pollution control plan (SWPCP) is generated to reflect future development, a biological assessment may need to be completed to determine downstream water quality and the potential effects to ESA-listed salmonids and bull trout found in Hood River.

ESA-Listed Species Potentially Occurring in Project Vicinity

Species Name			ESA Listing Status	Critical Habitat
Common Name	Scientific Name	ESU or DPS*		
Chinook Salmon	<i>(Oncorhynchus tshawytscha)</i>	Lower Columbia River ESU	Threatened	Designated
Coho Salmon	<i>(Oncorhynchus kisutch)</i>	Lower Columbia River ESU	Threatened	Proposed
Steelhead	<i>(Oncorhynchus mykiss)</i>	Lower Columbia River DPS	Threatened	Designated
Bull Trout	<i>(Salvelinus confluentus)</i>	Columbia River DPS	Threatened	Designated
Northern Spotted Owl	<i>(Strix occidentalis caurina)</i>	N/A	Threatened	Designated
Fisher	<i>(Martes pennant)</i>	West Coast DPS	Proposed	None

*ESU=Evolutionarily Significant Unit; DPS=Distinct Population Segment

1.1 Fish

Lower Columbia River Chinook salmon, coho salmon, and steelhead inhabit the main stem of Hood River. Cedar Creek is not mapped as a fish-bearing stream, and the airport is approximately 1.9 miles from Hood River. As mentioned above, potential drainage from any future airport development that is directed to Cedar Creek or Alder Creek may require the preparation of a SWPCP and, as a result, a biological assessment may need be completed to determine the impacts of downstream water quality to Chinook salmon, coho salmon, and steelhead.

Bull trout inhabit cold water in relatively pristine stream and lake habitats. They are known to occur within the main stem of Hood River. Cedar Creek does not provide suitable habitat for bull trout because it has been highly altered. Potential drainage from any future airport development that is directed to Cedar Creek or Alder Creek may require the preparation of a SWPCP and, as a result, a biological assessment may need be completed to determine the impacts of downstream water quality to bull trout.

1.1.1 Essential Fish Habitat

Public Law 104-297, the Sustainable Fisheries Act of 1996, amended the Magnuson-Stevens Fishery Conservation and Management Act to establish new requirements for descriptions of essential fish habitat (EFH) in federal fishery management plans and to

require federal agencies to consult with the National Marine Fisheries Service (NMFS) on activities that may adversely affect EFH.

The Magnuson-Stevens Act requires all fishery management councils to amend their fishery management plans to describe and identify EFH for each managed fishery. In 2000, the Pacific Fishery Management Council issued Amendment 14 to its 1999 salmon fishery management plan for Pacific Coast salmon. This amendment covers EFH for the Pacific salmon (Chinook salmon, coho salmon, and pink salmon) under NMFS jurisdiction that potentially could be affected by the proposed action.

EFH for Pacific salmon in freshwater includes all streams, lakes, ponds, wetlands, and other currently viable bodies of freshwater and the substrates within those waterbodies accessible to Pacific salmon. Therefore, there is no EFH within the airport property because Pacific salmon are not able to access Cedar Creek or its tributary.

1.2 Birds

Northern spotted owls are known to occur in the Eastern Cascade bioregion, but require old growth forests for nesting, roosting, foraging, and dispersal. The airport and surrounding areas do not contain suitable habitat for northern spotted owls. The airport is outside of the known geographic distribution range for the northern spotted owl. The project will have no effect on the northern spotted owl.

1.3 Mammals

Fishers inhabit forested areas and avoid non-forested habitat such as open forest, grassland, and wetland habitats. The airport is composed of open grassland and wetland habitats and does not provide suitable habitat for fisher. The project will have no effect on fisher.

2.0 LAND USE AND ZONING

2.1 Airport Development and Overlay Zones

The airport is zoned airport development (AD) by the County with an airport zoning overlay (height combining zone). Uses allowed outright within the AD zone include those specific to functioning airports and, therefore, airport expansion or airport-related activities are permitted on parcels located within this zone. The height combining zone is discussed below in further detail.

2.1.1 Overlay Zone (Height Combining Zone – HRCC 34.30)

The Federal Aviation Administration requires local governments to uphold specific height restrictions in close proximity to airports. These height restrictive zones include the Runway Safety Area (RSA), Runway Object Free Area (OFA), Obstacle Free Zone (OFZ), Building Restriction Line (BRL), Runway Protection Zones (RPZ), and the Aircraft

Parking Line (APL). The aforementioned zones surround the Airport in all directions spanning 1.5-miles to the south and 1.5-miles north, 2-miles to the east and 2-miles to the west. The County recognizes these zones through an adopted zoning code outlined in HRCC 34.30.

2.2 Surrounding Zoning Designations

County zoning designations to the north, south, and east of the airport consist primarily of exclusive farm use (EFU) and rural residential 1-acre (RR-1). Zones to the west and northwest of the airport consist of commercial (C-1), EFU, light industrial/manufacturing (M-2), rural residential 2.5-acre (RR-2.5), and RR-1 to the west.

In Hood River County, RR is defined by its minimum parcel size. RR-1 and RR-2.5 consist of residential parcels with a minimum size of 1 acre or 2.5 acres, respectively. Uses on RR- and EFU-zoned land in the airport's vicinity consist of Twin Peaks Restaurant, agriculture, orchards, and structures related to agricultural use. Additional uses in the airport's vicinity include the public rights-of-way of Airport Road and OR 281, a state highway.

2.3 Incompatible Land Uses

2.3.1 Exclusive Farm Use Zone (HRCC Article 7)

Airport-related activities are not permitted within the EFU zone. Permitted uses typically consist of farm-related activities, structures, enhancements of the natural environment, and churches.

In order to expand airport-related activities into the EFU zone, an exception to statewide Goal 3 (Agriculture) would be required per HRCC 7.40(T) and subsequent Oregon Administrative Rules 660.033.0120, 660.033.130(13), and 660.012.0065.3(n). Exceptions to Goal 3 are uncommon and not easily obtained. Given the proximity of EFU lands to the airport, their acquisition may be necessary and useful for airport overlay zone purposes, rather than for agriculture conversion. Purchasing agricultural property in the runway protection zone, or in other airport-related overlay zones, will allow leasing opportunities.

2.3.2 Manufacturing Zone (HRCC Article 32)

Parcels zoned M-2 are located adjacent to the Western Antique Aeroplane & Automobile Museum (WAAAM). Generally, uses permitted within this zone consist of manufacturing businesses and those related to manufacturing.

Because of the M-2 zone's nature as a manufacturing-oriented area, airports are either not permitted in this zone or permitted conditionally; therefore, this zone is considered an incompatible land use for airport expansion.

2.4 Parks and Recreation

Parks and recreation uses within the vicinity of the airport are limited to local bicycling along OR 281 and county streets and visitation to WAAAM. The museum, which is located within the AD zone approximately 1,000 feet north of the runway, is open to the public and contains one of the country's largest collections of antique airplanes and antique automobiles that are still flying or driving.

The museum's collection includes a 1917 Curtiss JN-4D Jenny featuring an OX-5 90 HP engine as well as numerous makes and models of early automobiles and motorcycles. While not a traditional park and recreational facility, WAAAM draws significant crowds for major events, including its annual September fly-in. No other parks and recreation locations exist within the airport's vicinity.

3.0 AIR AND WATER QUALITY

3.1 Air Quality

The airport is near the Columbia River and the Columbia Gorge, which routinely experience high winds. These high winds, coupled with the fact that the area has little to no manufacturing or industrial uses, result in very little air pollution within the region. Additionally, the airport is not located in a nonattainment area. According to the Environmental Protection Agency (EPA), the air quality index in Hood River is 97 on a scale to 100 (higher is better). This is based on ozone alert days and number of pollutants in the air, as reported by the EPA.

3.2 Water Quality

The airport lies in the north central part of the state. The Oregon Department of Environmental Quality (DEQ) and the Oregon Water Resources Department (WRD) have designated the Hood River area as a management area; thus, groundwater use has been restricted due to overdraft issues. In addition, DEQ and WRD have both designated the Hood River aquifer as "sensitive." Groundwater contamination in this region is caused by both non-point and point source contaminations. Non-point sources, such as agriculture and leaching from densely located septic systems, are primarily responsible for elevated levels of nitrogen near the airport and the City of Hood River.

Cedar Creek and Alder Creek, mentioned above, are two surface water bodies found in the vicinity of the airport. They drain to the Hood River, approximately 1.9 miles to the northeast. Furthermore, DEQ lists the Hood River as a 303d-listed water, meaning the river exceeds water quality thresholds for certain parameters.

4.0 WASTEWATER AND SOLID WASTE TREATMENT

As part of the Windmaster Area Sanitary Sewer collection system project, a past project involving the regional sewer district and BergerABAM, a sanitary connection was

installed in Airport Drive. Having the capacity to discharge sewage to a sewer collection and treatment system will alleviate the need for on-site septic systems. Other wastewater and/or solid waste generated at the airport must comply with DEQ requirements.

5.0 DRAINAGE PATTERNS (STORMWATER)

As authorized by the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Stormwater discharges at airports are regulated under a NPDES 1200-Z permit from the DEQ. Future development that meets size threshold requirements may require the airport to prepare a SWPCP to identify new development stormwater generating impervious surfaces and to ensure consistency with NPDES requirements.

6.0 WETLANDS AND WATERS OF THE STATE/U.S.

USFWS's National Wetland Inventory (NWI) database was accessed on 16 January 2015 to determine the extent of known wetlands within the airport. No wetlands were identified within the airport by the NWI mapping database. In addition, the Hood River County Soil Survey was reviewed to determine if any hydric soils are mapped within the airport properties. According to the Hydric Soils of the United States (USDA – NRCS 1991), no hydric soils occur within the airport properties. However, a wetland delineation conducted by PHS in March 2010 on portions of tax lots 1000, 1100, 2200, 2501, 2503, and 2600 identified two wetland areas north of the parallel taxiway (see attached figure). According to the PHS delineation report:

- Wetland A is approximately 0.83 acre in size and includes Cedar Creek, a tributary to Hood River. The wetland and creek extend off site to the north and east.
- Wetland B is approximately 0.14 acre in size and appears to be a remnant tributary (Alder Creek) to Cedar Creek. This wetland is also located north of the parallel taxi runway and extends off-site to the north.

In addition to the wetland identified by PHS, two other potential wetland areas were identified through aerial photograph interpretation. When compared to the surrounding mowed lawn area, these two wetland areas have been left in a more natural condition and their vegetation was greener than the surrounding landscape; during the dry summer months, this typically indicates a water source. Additionally, Street View images available from Google Maps indicate the presence of cattails and shrubby vegetation, also indicative of wetland conditions. The two potential wetland areas are shown in the attached figure. The photo interpretation does not constitute a wetland delineation and a formal wetland delineation will be needed if development is planned for these areas.

As mentioned above, Cedar Creek and Alder Creek are mapped within the boundaries of the airport and are classified as waters of the state and United States. Cedar Creek is mapped in the northwest portion of the airport. As the attached figure shows, Alder Creek originates in an orchard south of the airport and flows north into it, and has been piped under the runway and the parallel taxi runway.

Wetlands and water bodies are under the jurisdiction of the Department of State Lands and the U.S. Army Corps of Engineers. The potential wetland areas appear to be connected to Cedar Creek and would be regulated as jurisdictional waters.

Attachment: Figure



FIGURE 1 - DRAFT STREAM AND WETLANDS MAP
DRAFT- BASE MAP IS PRE-RUNWAY SHIFT



0 225450 900 1,350 1,800
 Miles



Appendix B



ARTICLE 33 – AIRPORT DEVELOPMENT ZONE (AD)

(Amended by Ordinance #295 – Effective June 26, 2009)

Section 33.10 - Purpose and Intent

The purpose of this zone is to protect airport facilities from incompatible uses; to provide for future airport expansion; and to preserve lands adjacent to airports for future commercial and light industrial uses which will be directly dependent on air transportation.

Section 33.15 - Uses Permitted

The following uses are permitted subject to issuance of a land use permit:

- A. Accepted Farming Practices; including crop dusting and associated activities, such as chemical storage.
- B. Customary and usual aviation-related activities including but not limited to takeoffs, landings, aircraft hangars, tiedowns, construction and maintenance of airport facilities, fixed-base operator facilities, a residence for an airport caretaker or security officer, and other activities incidental to the normal operation of an airport. Residential, commercial, industrial, manufacturing, and other uses, except as provided in this ordinance, are not customary and usual aviation-related activities and may only be authorized pursuant to Section 33.20.
- C. Air cargo terminals.
- D. Aircraft and aviation recreational vehicle sales, repair, service, rental, storage and flight schools relating to aircraft and aviation recreational vehicle operations; and construction and maintenance of airport facilities on the airport property essential for the operation of airports, such as fuel storage, hanger use, fixed-base operator offices, etc.
- E. Public and semi-public buildings, structures and uses essential to the welfare of an area, such as fire stations, pump stations, and water storage.
- F. Taxi and bus terminals.
- G. Snack-shop for airport clientele with a total floor area of no larger than 1,000 square feet.
- H. Other uses where the ongoing operations and the use must be directly dependent upon and directly associated with the Airport.
- I. Emergency medical flight services; law enforcement and firefighting activities.
- J. Air passenger and air freight terminals and services at levels consistent with the classifications and needs identified in the State Aviation System Plan.
- K. Aviation recreation and sporting activities, as defined in Section 34.15.
- L. Antique Aircraft and Automobile Museum and related uses such as food service and gift shop specifically intended to accommodate museum visitors.

33.20 - Uses Subject to a Conditional Use Permit

The following conditional uses will be permitted by the Planning Director, providing they meet all the criteria outlined in Section 33.25 and meet the requirements of Article 60:

- A. Light industrial, as permitted in the M-2 zone.
- B. Truck terminals.

Section 33.25 - Conditional Use Criteria

The Planning Director may grant a Conditional Use Permit for uses described in Section 33.20 if each of the below criteria is met, as determined by the Planning Director. The ongoing operations or the use must be directly dependent upon and directly associated with the airport. The use shall not create a safety hazard or otherwise conflict with any present or planned airport uses.

Section 33.30 - Limitations of Use

In an AD zone, the following conditions shall apply.

A. Liquid and Solid Wastes:

Storage of animal, vegetable, or other wastes which attract insects, rodents, or birds or otherwise create a health hazard shall be prohibited.

B. Discharge Standards:

There shall be no emission of smoke, fly ash, dust, vapor, gases, or other forms of air pollution that may cause nuisance or injury to human, plant or animal life, or to property, or that may conflict with any present or planned operations of the airport.

C. Lighting:

1. Sign lighting and exterior lighting shall not project directly into an adjoining residential zone.
2. Unless necessary for safe and convenient air travel, sign lighting and exterior lighting shall not project directly into the runway, taxiway, or approach zone.

D. Landscaping:

1. Site plan submitted with an application for a land use permit must include a landscaping plan, which shows the location and type of plant materials.
2. New uses, which abut a residential zone, shall provide and maintain a dense evergreen landscape buffer, sight obscuring fence, or landscaped berm which attains a (mature) height of at least six (6) feet. Should evergreen landscaping be used to meet this standard, only varieties with a mature height limit less than the elevation of the imaginary airspace shall be used.

3. All unused property shall be maintained in native or existing vegetative ground cover or planted grass, shrub and barkdust, or other suitable ground cover in an uncluttered manner.
4. Responsibility for establishment and maintenance of landscaping rests with the property owner.

E. Parking:

1. Site plan(s) submitted with application for a land use permit must include a parking plan which shows the location and number of parking spaces, circulation patterns, and ingress and egress provisions.
2. All industrial uses within an Airport Development zone shall provide at least two parking spaces for every three employees on the major shift during normal season.
3. All Commercial Uses shall follow the Zoning Ordinance for the required number of parking spaces.
4. All parking lots shall have an all weather surface.
5. Adequate provisions for safe and convenient circulation, ingress, and egress shall be provided.

F. Glare and Electro-magnetic Interference:

1. Building materials shall not produce glare which may conflict with any present or planned operations of the airport.
2. No use may produce electro-magnetic interference, which may conflict, with any present or planned operation of the airport.

Section 33.35 - Dimensional Standards

- A. Minimum street frontage of lots: Fifty- (50) feet.
- B. Vision clearance setback from all street intersections: Thirty-five (35) feet.
- C. No building shall be constructed closer to a residential or farm zone than the height of the building.
- D. All new buildings must be set back at least 30' from Cedar Creek.
- E. Maximum height:
 - i. For a building or structure not equipped with a sprinkler system: Two (2) stories or 30 feet, whichever is less, unless otherwise restricted pursuant to the height limitations of the Airport Height Combining Zone.

- ii. For a building or structure equipped with a sprinkler system approved by the County Building Official and/or Fire Marshal: Three (3) stories or 45 feet, whichever is less, unless otherwise restricted pursuant to the height limitations of the Airport Height Combining Zone.
- iii. Unless otherwise exempt pursuant to Section 34.60(K), structures on the airport property necessary for the operation of the airport may be higher than the above height limitations, subject to submitting a FAA Form 7460-1 to and receiving approval from the Oregon Department of Aviation and Federal Aviation Administration.

ARTICLE 34 – AIRPORT HEIGHT COMBINING ZONE (AH)

(Amended by Ordinance #295 – Effective June 26, 2009)

Section 34.10 - Purpose and Intent

The purpose of the Airport Height Combining Zone (AH) is to protect the public's safety and welfare and to protect property adjacent to and surrounding both the Cascade Locks State Airport and the Hood River Airport) through the use of height restrictions Ken Jernstedt Airfield (formerly the and other provisions in this ordinance. The AH Zone shall regulate various types of air space obstruction and other hazards which may interfere with safe landing and taking off of aircraft including: (a) the height of structures and objects of natural growth; (b) conditions or activities which may cause electronic interference with air navigation communication systems; (c) lights which may interfere with airport lighting systems; (d) conditions or activities which produce levels of smoke, dust and glare that would interfere with safe operations; and (e) conditions or activities creating bird strike hazards. The AH Zone is an overlay zone to be used in conjunction with any base zone.

The protected airspace and Runway Protection Zone (RPZ) standards depicted in the attached exhibit entitled “Airport Zones Current and Future Conditions” (*see Appendix “C-1”*) will apply to present runway configuration until the runway shift identified in the 2009 Airport Master Plan is completed. Once the runway is shifted east, the newly located airspace and RPZ standards depicted in the exhibit as “future” will automatically apply and supersede the “current” airspace and RPZ regulations.

Section 34.15 – Definitions

- A. Aircraft. Helicopters and airplanes, but not hot air balloons or ultralights.
- B. Airport. The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing and taking off from the strip of land, including but not limited to land used for existing airport uses.
- C. Airport Imaginary Surfaces (and zones). Imaginary areas in space and on the ground that are established in relationship to the airport and its runways. The airport imaginary surfaces are defined by the Approach Surface, Transitional Surface, Horizontal Surface, Conical Surface, and Runway Protection Zone, which are described in Section 34.30 and depicted in Appendix “B-2” (Current) and B-3” (Future).
- D. Airport Noise Criterion. The State criterion for airport noise is an Average Day-Night Sound Level (DNL) of 55 decibels (dBA or dB) or greater. The Airport Noise Criterion is not designed to be a standard for imposing liability or any other legal obligation except as specifically designated pursuant to OAR 340, Division 35.

- E. Average Day-Night Sound Level (DNL). Average day-night sound level is the FAA standard measure for determining the cumulative exposure of individuals to noise. DNL is the equivalent of noise levels produced by an aircraft operations during a 24-hour period, with a ten-decibel penalty applied to the level measured during nighttime hours (10:00 p.m. to 7:00 a.m.).
- F. Aviation Recreation and Sporting Activities. Activities, facilities, and accessory structures at airports that support recreational use of aircraft and sporting flight. Aviation recreation and sporting activities on airport property shall be subject to approval of the airport sponsor. Aviation recreation and sporting activities include but are not limited to: fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft; aeronautic flight skills contests; gyrocopter flights; flights carrying parachutists/skydivers; and parachute/skydiving drops onto an airport, when a minimum 10 acre drop zone, which roughly approximates a square or circle, has been secured from the airport sponsor.
- G. Aviation Recreational Vehicle: A type of vehicle, other than planes or helicopters, that are primarily used or intended to be used for recreational flight. Examples of an aviation recreational vehicle include but are not limited to gliders, hot air balloons, and ultralights.
- H. FAA. Federal Aviation Administration
- I. FAR. Regulation issued by the FAA.
- J. FAR Part 77. Regulation, Part 77, “Objects Affecting Navigable Airspace, “establishes standards for determining obstructions to navigable airspace.
- K. Height. The highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level.
- L. Obstruction. Any structure or tree, plant or other object of natural growth that penetrates an imaginary surface.
- M. Other than Utility Runway. A runway that is constructed for and intended to be used by turbine-driven aircraft or by propeller-driven aircraft exceeding 12,500 pounds gross weight.
- N. Public Assembly Facility. A permanent or temporary structure or facility, place or activity where concentration of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where

people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time.

- O. Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.
- P. Structure. Any constructed or erected object, which requires a location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.
- Q. Visual Runway. A runway intended solely for the operation of aircraft using visual approach procedures, where no straight-in instrument approach procedures or instrument designations have been approved or planned, or are indicated on an FAA-approved airport layout plan or any other FAA planning document.

Section 34.20 - Application

The provisions of this ordinance shall apply to all lands in Hood River County under the following surfaces: (a) airport approach; (b) conical; (c) horizontal; and (d) transitional which are shown in Appendix "A", Cascade Locks State Airport Plan, Cascade Locks, Oregon (4/18/83)¹; and Appendix "B" Ken Jernstedt Airfield Airport Master Plan Sheets 1-5, 2009. (*Originals at a larger scale are available in the Hood River County Planning Department.*) Dark shaded or diagonal lines and irregular bounded areas as noted in both Appendices show topography penetrating the imaginary surfaces making it difficult to apply provisions of this ordinance.

Section 34.30 - Height Limitations

No structure or tree shall be erected, altered, allowed to grow, or be maintained in the Airport Height Combining Zone to a height in excess of height limitations established by each of the following goals which underlie each designated surface as shown in Appendices "A", "B", and "C":

- A. Primary Surface: A surface longitudinally centered on a runway. The primary surface extends 200 feet beyond each end of the runway and is 250 feet wide along each side, as measured from the centerline of the runway.

¹. Applies only to lands outside the Cascade Locks Urban Growth Boundary. It is recommended (see County Policy Document and Goal 12- Transportation) that the City of Cascade Locks update their Comprehensive Plan to apply the Airport Height Combining Zone to Cascade Locks State Airport in the UGA and designate the airport in their plan.

- B. Approach Surface (for Other than Utility Visual Runway): Slopes twenty (20) feet outward for each foot upward (20:1) beginning at the end of and at the same elevation as the Primary Surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- C. Transitional Surface: Slopes seven (7) feet outward for each foot upward (7:1) beginning at the sides of and at the same elevation as the Primary Surface and the Approach Surface and extending to a height of 150 feet above the airport elevation.
- D. Horizontal Surface: Established at 150 feet above the airport elevation or at a height of 301 feet above mean sea level at the Cascade Locks Airport and 780 feet at the Ken Jernstedt Airfield. *(Note: The elevation of the Ken Jernstedt Airfield is subject to change should the runway shift to the east as detailed in the 2009 Airport Master Plan.)* The Horizontal Surface extends 5,000 feet from the center of each runway end, as shown on Appendix “B-2” (current) and “B-3”(future), and begins where the Transitional Surface reaches a vertical height of 150 feet.
- E. Conical Surface: Slopes twenty (20) feet outward for each foot upward (20:1) for 4,000 feet beginning at the periphery of the Horizontal Surface and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- F. Runway Protection Zone: Extending 1,000 feet from the ends of existing and planned runway termini as shown on attached Appendix C, Sheets 1 through 3. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the Primary Surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end.
- G. The Plan Diagram in the Appendices shall be utilized to assist in determining any air space obstructions.

Section 34.40 - Permitted Uses

Any permitted use in the base zone subject to compliance with the provisions of the AH Zone, including provisions in Section 34.60 below.

Section 34.50 - Uses Subject to a Conditional Use Permit

Conditional uses listed in the base zone shall be subject to compliance with provisions of the AH Zone, including provisions in Section 34.60 below.

Section 34.60 - Other Conditions to Use and Occupancy:

Uses permitted in the base zone will also be governed by the following restrictions:

- A. No building, pipe, chimney, tower, steeple, stand, platform, pole, wire or structure or erection or object of natural growth, or obstruction of any kind of nature whatsoever, shall be built, placed, hung, or permitted to grow or allowed to be built, placed or hung which shall at any point project into the zones as delineated in Appendices "A", "B" and "C" to this ordinance.
- B. No residential development or uses that promote public gathering are permitted in the Runway Protection Zone, as detailed in Appendix C (Sheets 1 through 3). Any residential development or uses that promote public gathering that lawfully existed as of the adoption date of this amendment (*June 26, 2009*) shall be treated as nonconforming uses, subject to the provisions of Article 65 (Nonconforming Uses).
- C. No searchlight, beacon light, or other glaring light shall be used, maintained, or operated within one-half mile of said airports, so that the same shall reflect, glare, or shine upon or in the direction of said airports.
- D. No glare producing materials such as unpainted metal or reflective glass shall be used on the exterior of any structure located within or below the Airport Height Combining Zone, where glare could impede a pilot's view.
- E. Any electromagnetic radiation that would interfere with normal aircraft communication is prohibited.
- F. Any land use or activity that produces smoke or haze to a degree that would interfere with normal aircraft operations is prohibited.
- G. Any land use or activity that produces excessive bird strike hazard in the designated zones is prohibited.
- H. Where a zone is covered by more than one height limitation the more restrictive shall prevail.
- I. It is the applicant's responsibility to provide elevation profiles and a site plan, both drawn to scale, including the location and height of all existing and proposed structures, measured in feet above mean sea level to demonstrate compliance with the height limitations of this Article.
- J. Except as provided in Subsection K, below, for areas within the airport imaginary surfaces, but outside the Approach and Transition Surfaces, where the terrain is near or higher than the airport imaginary surface elevation such that existing structures and/or permitted development penetrate or would penetrate the airport imaginary surfaces, structures up to 35 feet in height may be authorized subject to the following standards:

Notice to the Federal Aviation Administration (FAA) is required by Part 77 of the Federal Aviation Regulations where construction and/or alteration of structures may penetrate regulated airspace described within this Section. It is the applicant's responsibility to notify the FAA and the Oregon Department of Aviation (ODA) and secure approvals via FAA Form 7460-1. Once notification has been made, the FAA or ODA will either make a "determination of no hazard" (DNH) or require mitigation through structure relocation on the subject site, aviation safety lighting or other means. The Planning Department will require a DNH or ensure mitigation is met as part of its approval process.

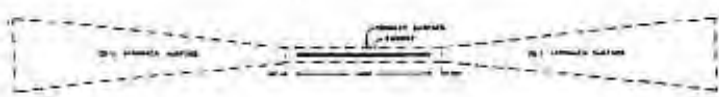
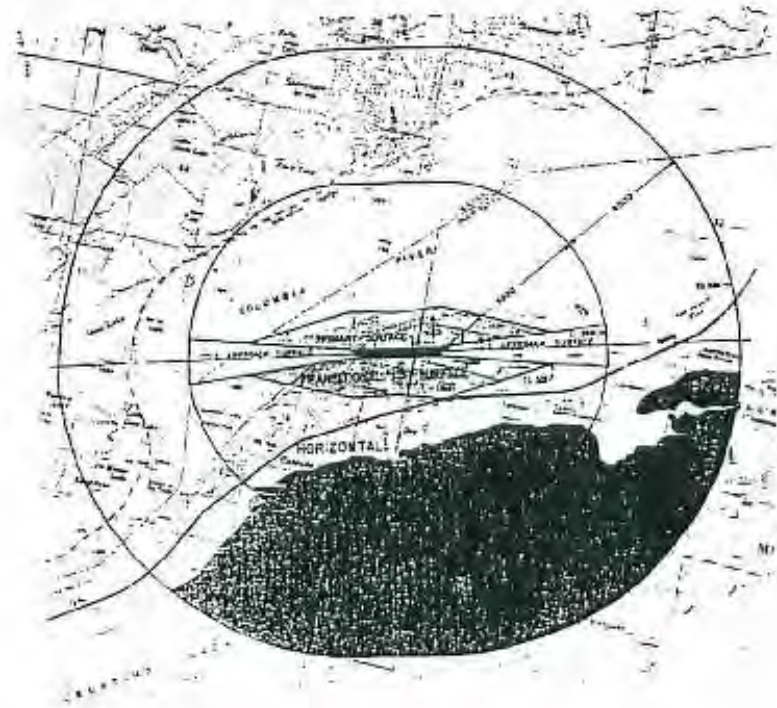
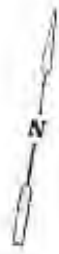
- K. Pursuant to FAA Form 7460-1, FAA notification is not required for any of the following construction activities or alterations:
- (1) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.
 - (2) Any antenna structure of 20 feet or less in height, except one that would increase the height of another antenna structure.
 - (3) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator, or an appropriate military service, the location and height of which is fixed by its functional purpose.
 - (4) Any construction or alteration for which notice is required by any other FAA regulation.
 - (5) Any other construction activities or alterations deemed by FAA as exempt from notification.
- L. Except as provided in Subsection 34.60(J), any person desiring to erect or increase the height of a structure causing it to penetrate into or penetrate further into the airport imaginary surface may apply for a variance, subject to the provisions of Article 66 (Variances) and the following:
- (1) Prior to making application for a variance, the applicant shall submit a Form 7460-1 to and receive approval from the Oregon Department of Aviation and Federal Aviation Administration.
 - (2) An approved variance may be conditioned as to require the owner of the structure to install, operate, and maintain obstruction markers at the owner's expense.

- (3) An approved variance may not allow a structure to exceed the height limitations prescribed in the base zone.

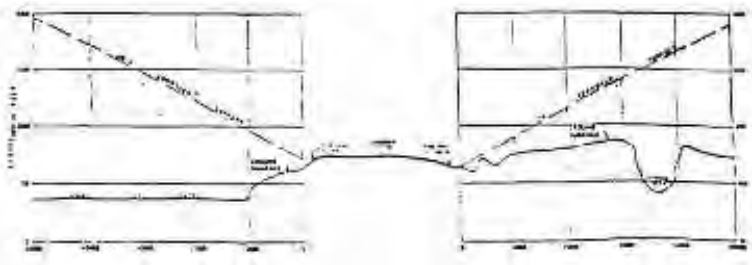
- M. The following requirements and conditions shall apply to safety risks associated with potential bird strike hazards resulting from new water impoundments proposed in close proximity to an airport identified under ORS 836.610 (1):
 - (1) No new water impoundments of one-quarter acre or larger shall be allowed:
 - (A) Within an approach corridor and within 5,000 feet from the end of a runway; or
 - (B) On land owned by the airport or airport sponsor where the land is necessary for airport operations;

 - (2) Wetlands mitigation required for projects located within the areas identified in paragraphs (A) and (B) of this subsection shall be authorized where it is not practicable to provide off-site mitigation.

Appendix "A"

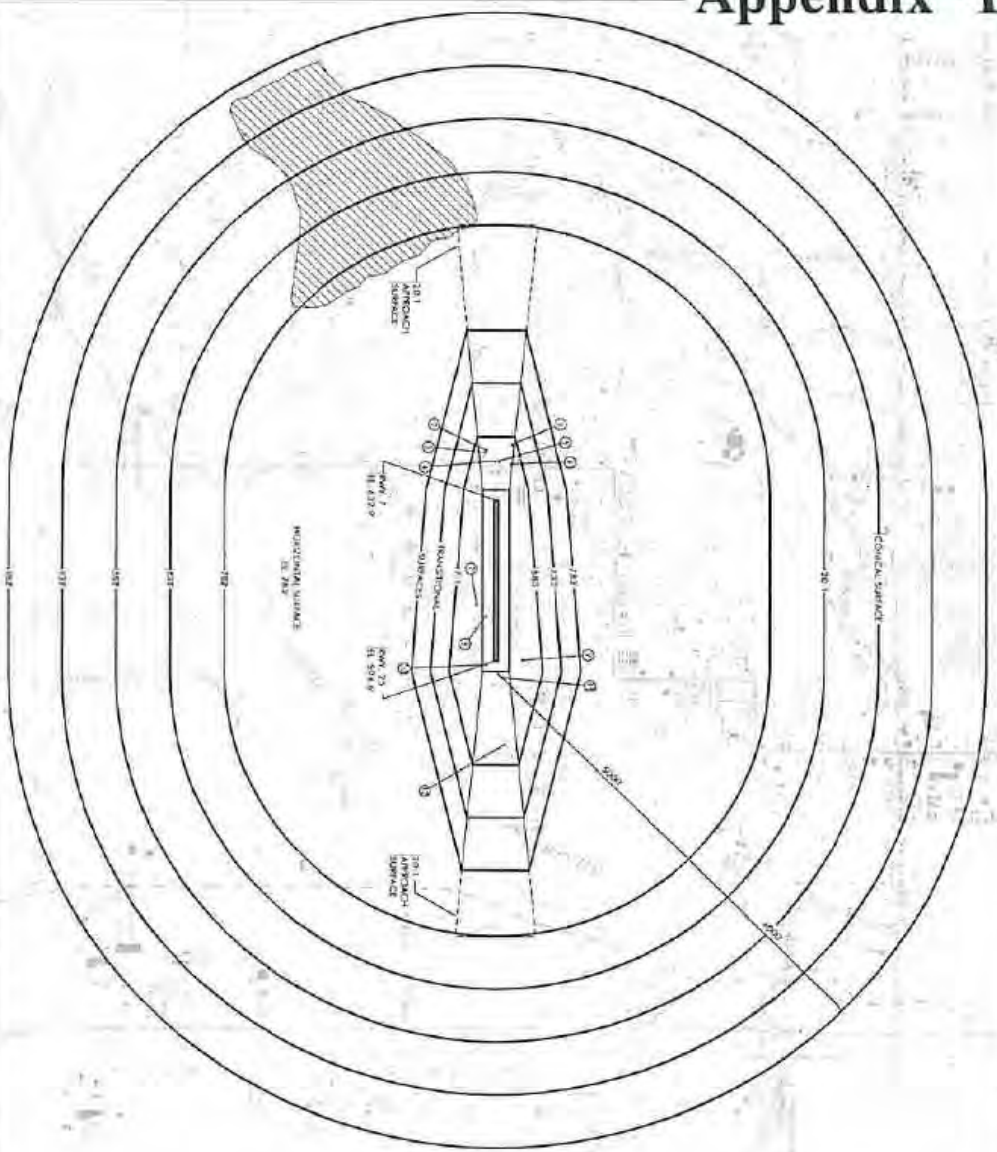


PLAN



Article
34

Appendix "B-2"



REMARKY RESTRICTION LEGEND

NO	MARK	DESCRIPTION	VALUES	OTHER
1	1	100 FT	100 FT	
2	2	200 FT	200 FT	
3	3	300 FT	300 FT	
4	4	400 FT	400 FT	
5	5	500 FT	500 FT	
6	6	600 FT	600 FT	
7	7	700 FT	700 FT	
8	8	800 FT	800 FT	
9	9	900 FT	900 FT	
10	10	1000 FT	1000 FT	
11	11	1100 FT	1100 FT	
12	12	1200 FT	1200 FT	
13	13	1300 FT	1300 FT	
14	14	1400 FT	1400 FT	
15	15	1500 FT	1500 FT	
16	16	1600 FT	1600 FT	
17	17	1700 FT	1700 FT	
18	18	1800 FT	1800 FT	
19	19	1900 FT	1900 FT	
20	20	2000 FT	2000 FT	

- NOTES**
- FOR DESCRIPTION OF CONE-IN RESTRICTIONS AND RESTRICTION PLAN SEE FIG. 1 AND FIG. 2.
 - FOR RESTRICTIONS SEE FIG. 1 AND FIG. 2.

LEGEND

- TERRAIN PROJECTION OF MAGNETIC SURFACE
- GROUND CONTACT INTERVAL = 40'

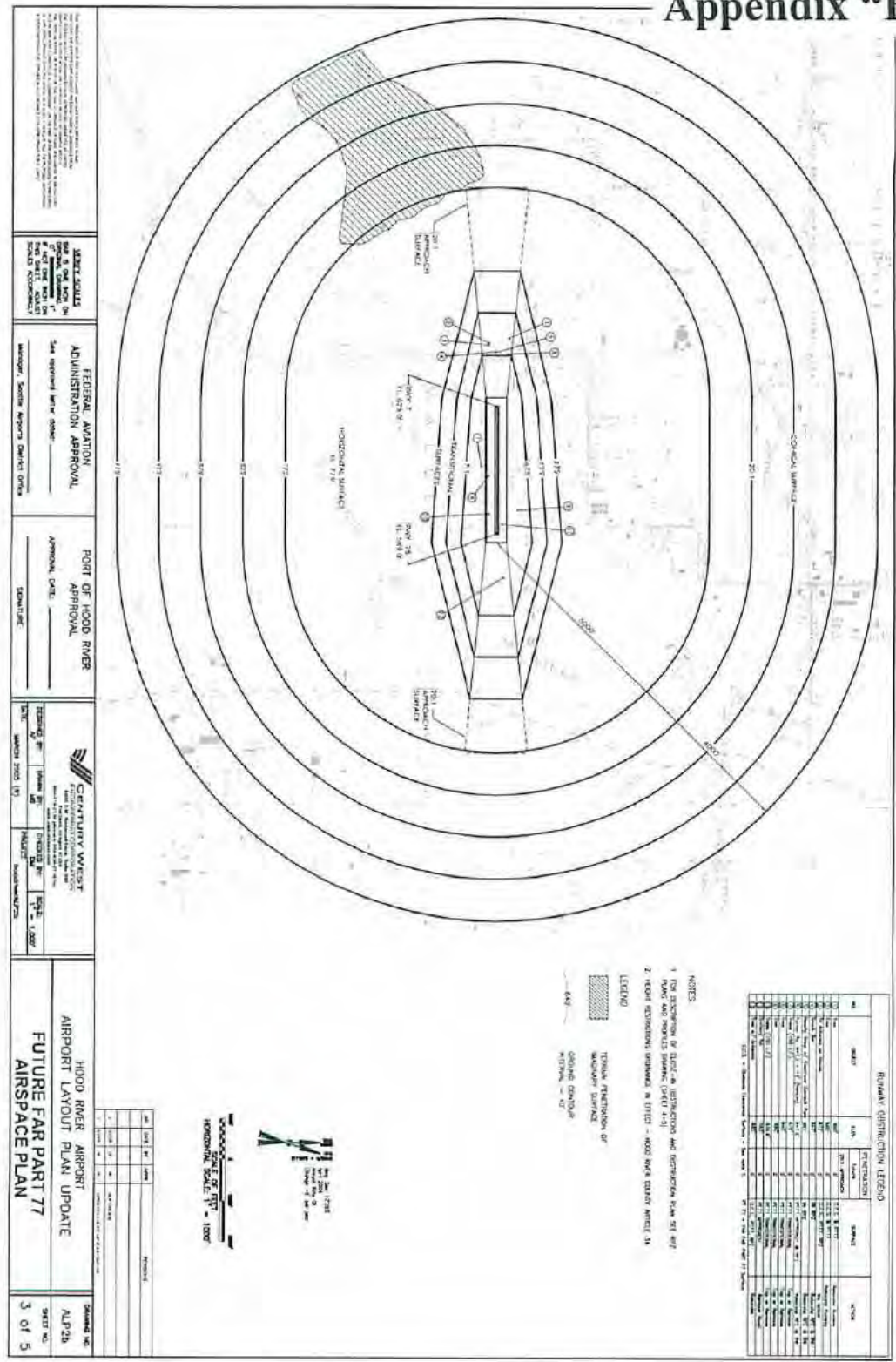


SCALE OF FIG. 1
HORIZONTAL SCALE = 1" = 1000'

NO.	DATE	REVISION
1		
2		
3		
4		
5		

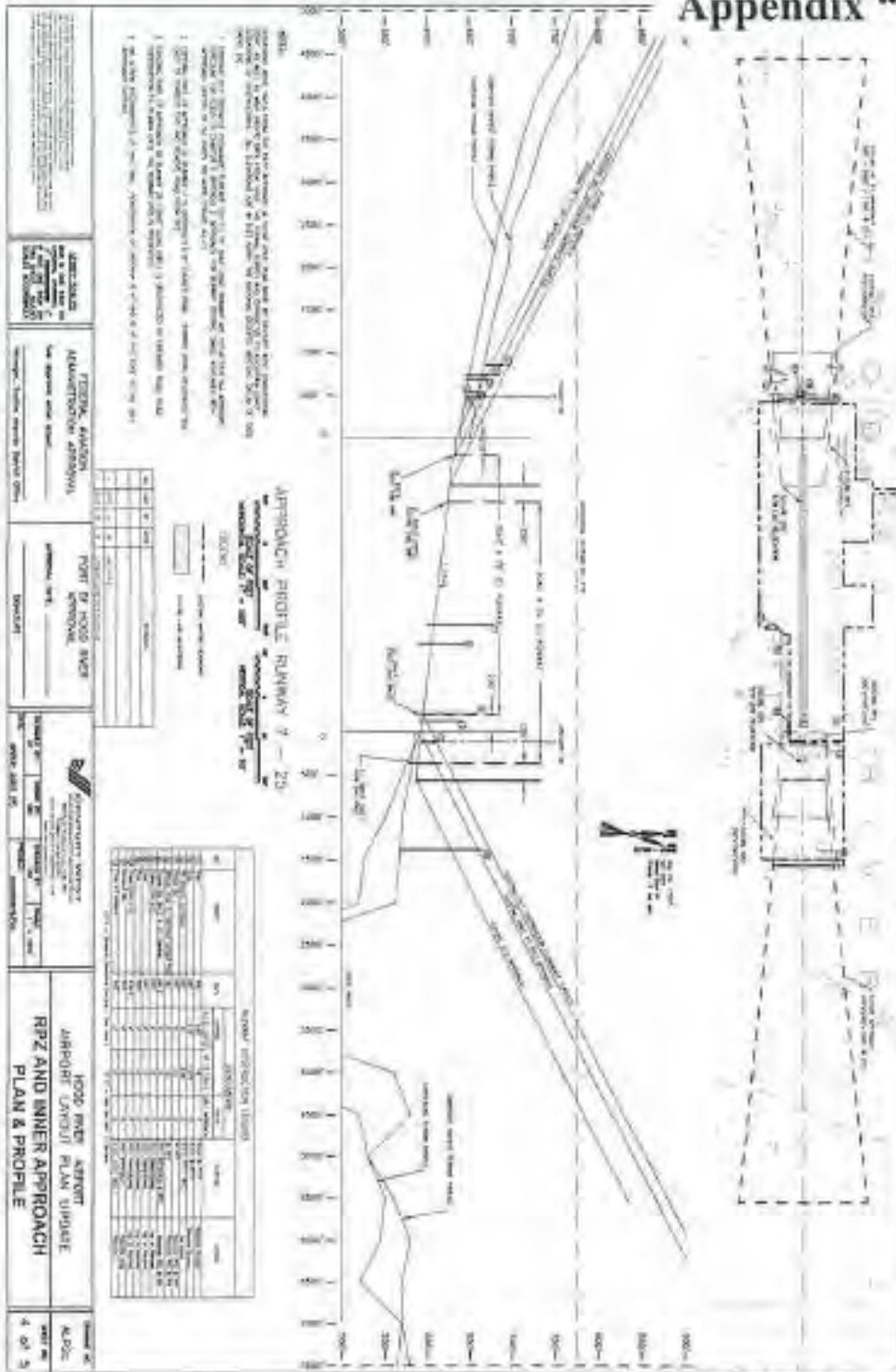
<p>GENERAL NOTES:</p> <p>1. THIS PLAN IS A PART OF THE AIRPORT MASTER PLAN AND SHOULD BE USED IN CONJUNCTION WITH THE OTHER PARTS OF THE PLAN.</p> <p>2. THE AIRPORT MASTER PLAN IS A PLAN OF THE AIRPORT AND IS NOT A SURVEY.</p> <p>3. THE AIRPORT MASTER PLAN IS A PLAN OF THE AIRPORT AND IS NOT A SURVEY.</p> <p>4. THE AIRPORT MASTER PLAN IS A PLAN OF THE AIRPORT AND IS NOT A SURVEY.</p>	<p>STATE SOLS</p> <p>NO. 10 OF THE SOLS ON THE STATE OF MICHIGAN IN THE COUNTY OF ALPENA.</p> <p>DATE: MARCH 2005 (1)</p>	<p>FEDERAL AVIATION ADMINISTRATION APPROVAL</p> <p>DATE: _____</p> <p>APPROVAL: _____</p>	<p>PORT OF HOOD RIVER APPROVAL</p> <p>DATE: _____</p> <p>APPROVAL: _____</p>	<p>CONSULTING ENGINEER</p> <p>DATE: MARCH 2005 (1)</p> <p>SCALE: 1" = 1,000'</p>	<p>HOOD RIVER AIRPORT AIRPORT LAYOUT PLAN UPDATE EXISTING FAR PART 77 AIRSPACE PLAN</p> <p>DATE: _____</p> <p>SCALE: 1" = 1,000'</p>	<p>DATE: _____</p> <p>SCALE: 1" = 1,000'</p>	<p>DATE: _____</p> <p>SCALE: 1" = 1,000'</p>
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Appendix "B-3"



Article 34 – Airport Height Combining (AH) Zone

Appendix "B-4"



Article 34 – Airport Height Combining (AH) Zone

APPENDIX C-1

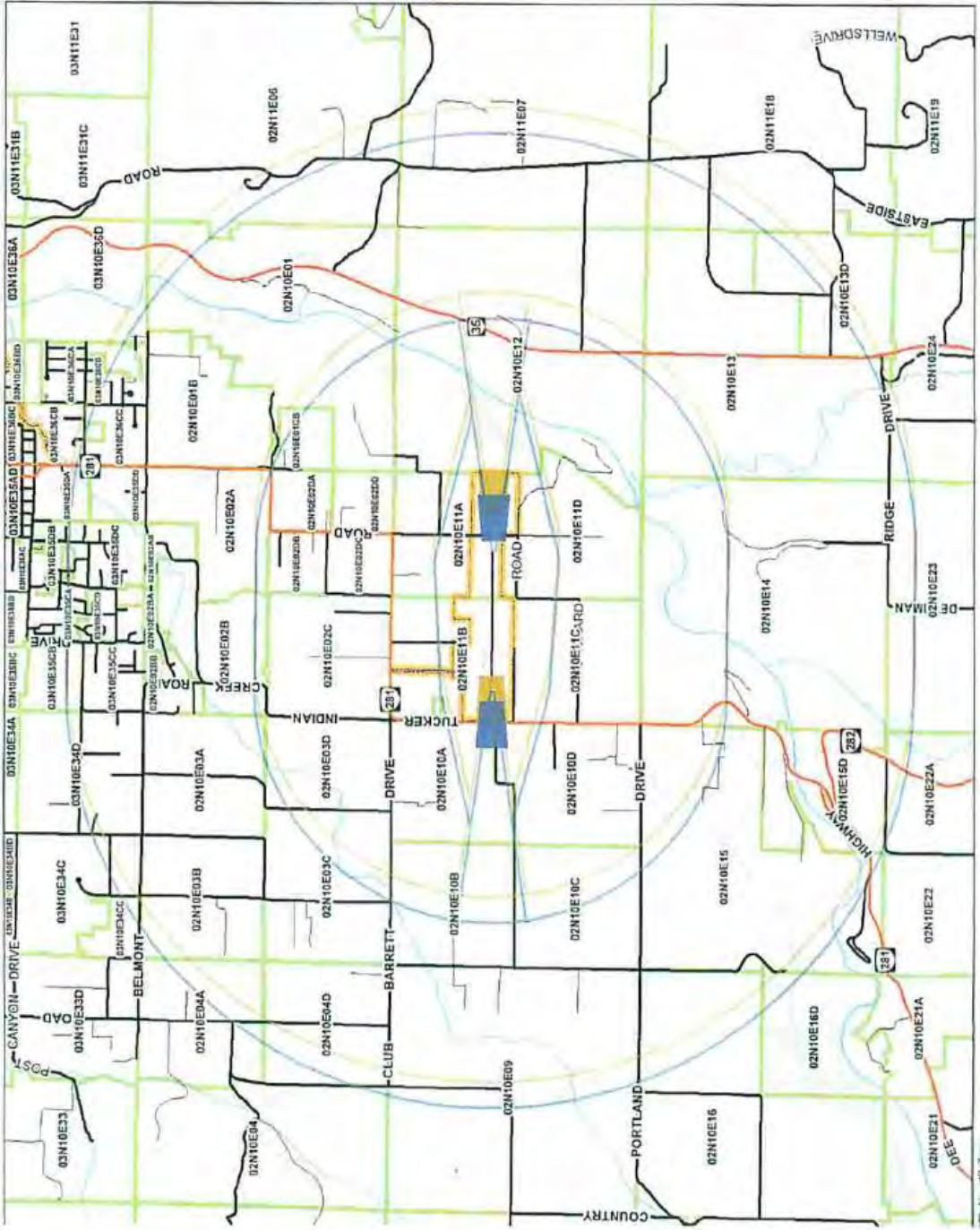
AIRPORT ZONES

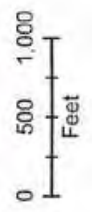
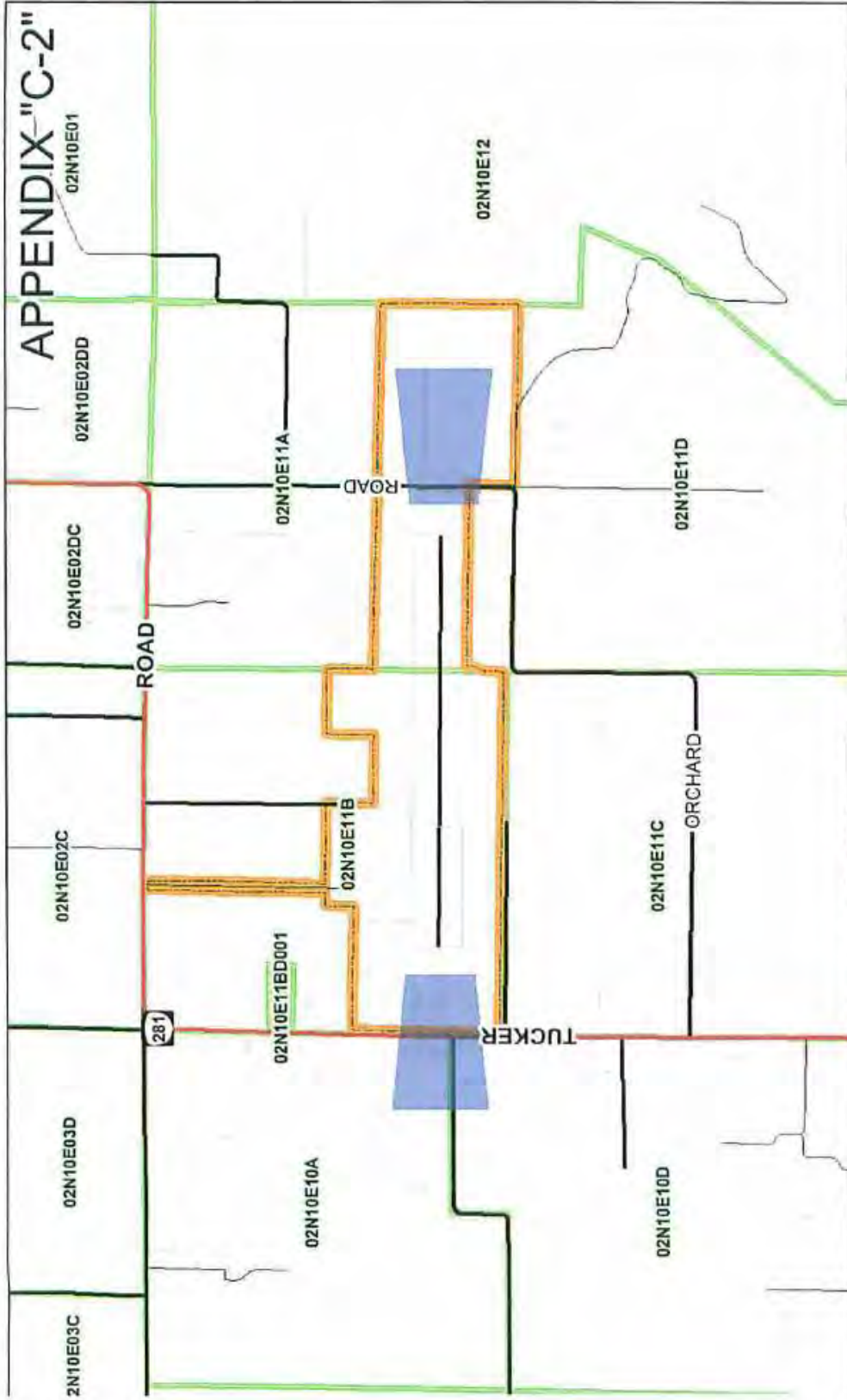
Current and Future Conditions

- 2009 Current Condition
 - Airport Height Zone Overlay
 - Runway Protection Zone (RPZ)
- Future Condition (with runway shift)
 - Airport Height Zone Overlay
 - Runway Protection Zone (RPZ)
- Port Ownership
- Taxlots
- Assessor's Map Index



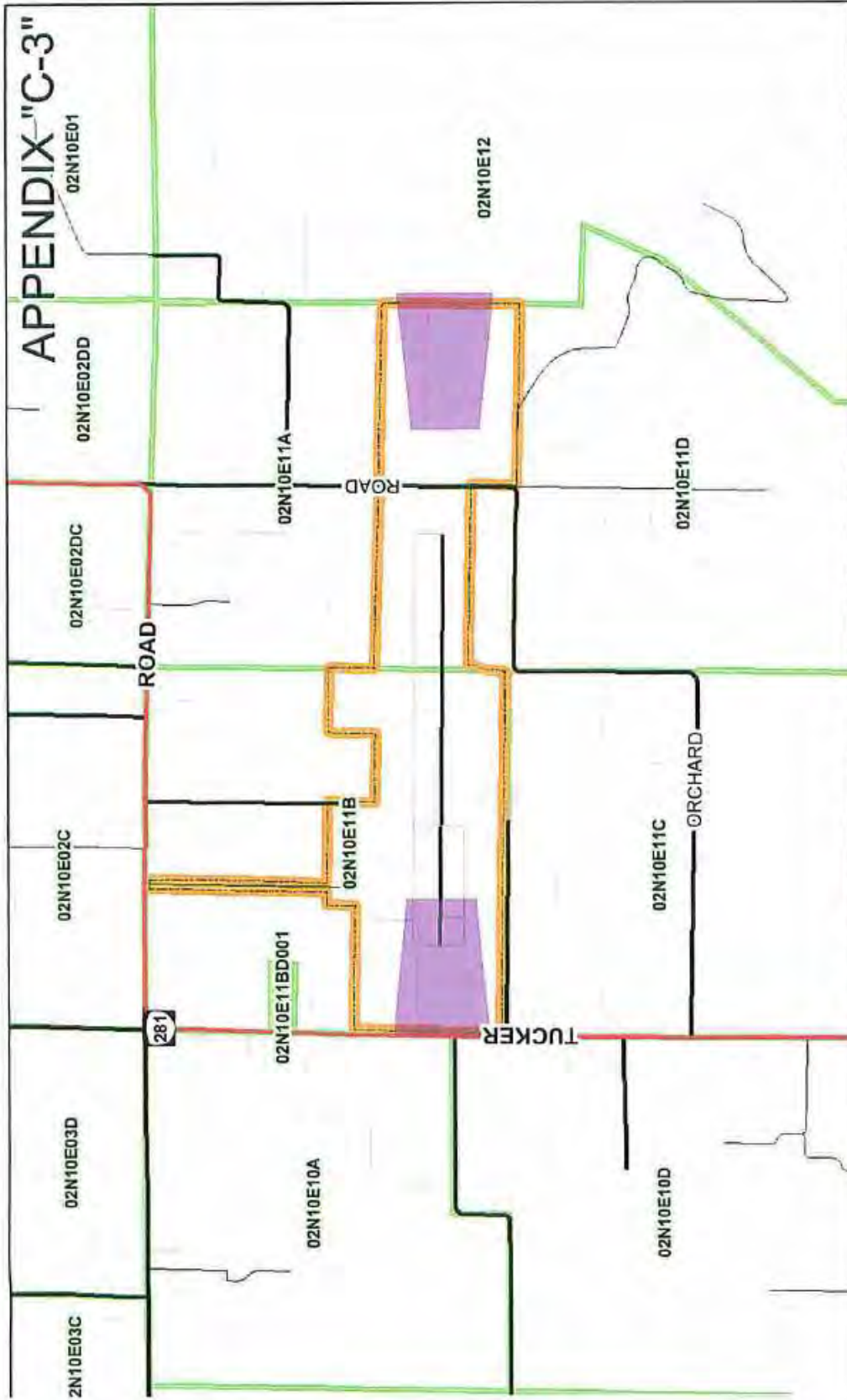
Project: MCDONALD'S Supercenter Design Plan
 DISCLAIMER: This map product was prepared by Hood River County and is for informational purposes only. It may not have been prepared by a professional land surveyor or other qualified professional. Users of this information should verify or contact the information source to ascertain the reliability of the information.
 Questions pertaining to this map should be directed to the Hood River County GIS Coordinator (541) 365-2618.
 APRIL 2009








- Runway Protection Zone (RPZ)
- Part Ownership
- Taxlots

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 LURES. This map product was prepared by Hood River County and
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 legal, engineering, or surveying purposes. Users of
 this map should review or consult the primary data and
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 Hood River County GIS Department (541) 385-2616



RUNWAY PROTECTION ZONE FUTURE CONDITION (WITH RUNWAY SHIFT)

-  Runway Protection Zone (RPZ)
-  Port Ownership
-  Taxlots

Ken. WA022 HAVEN StatePlane Oregon North
 NAD83. This map product was prepared by Hood River County and
 is for informational purposes only. It may not have been prepared for
 any other purpose. Users are advised to consult the Oregon State of
 Planning and Development for more information. The State of
 Oregon should review or consult the primary data and
 other sources to ascertain the usability of the information.
 Use pertaining to this map should be directed to the Hood River
 GIS Coordinator (503) 338-4211

ARTICLE 37 – AIRPORT NOISE OVERLAY ZONE (AN)

(Effective June 26, 2009 – Ordinance #295)

Section 37.10 – Purpose and Intent

The AN overlay zone is intended to be applied to lands within and adjacent to the Ken Jernstedt Airfield that are located in areas of 65 and greater Noise Decibel Levels (NDL), as depicted in Appendix “A” of this Article. The purpose of this zone is to implement OAR-660-013-0080 (1)(b) and to apply Noise Level Reduction (NLR) standards required by the Oregon Airport Planning Rule.

Section 37.20 – AN Zoning on Official Zoning Map

Lands zoned AN on the official zoning map are those lands located on and adjoining the airport and shown on the Airport Master Plan to have Airport Noise Contours at 65 dB (DNL) and greater. Existing dwellings and other uses otherwise prohibited in the AN zone are not subject to the provisions of Article 65, Non-Conforming Uses.

Section 37.30 – Uses Permitted Outright or Conditionally

The AN overlay zone will have no impact on uses allowed outright or conditionally in the underlying base zone, but may require additional construction standards as outlined in Article 37.50 below.

Section 37.40 – Prohibited Uses

The following uses are specifically prohibited within the AN zone:

1. New dwellings, except as otherwise allowed in Section 37.50(2).
2. New schools, except for flight schools located on airport property.
3. Outdoor music shells, amphitheatres.
4. Nature exhibits and zoos.

Section 37.50 – Limitations on Use

All proposed residential (habitable structures) and other allowed uses occurring within the 65 dB Airport Noise Contour must meet the following noise mitigation provisions:

1. Minimum Construction Standards: Except as provided in Subsection 5, below, noise mitigation is required for new construction located within the 65 dB contour. Typical home construction provides 20 dB indoors assuming vents and windows are closed. New residential construction and replacement dwellings require the applicant use building techniques (wall and window materials, insulating qualities, etc.) shown to enhance the indoor noise level to a range of 25 dB to 30 dB; or exceed standard construction indoor noise reduction by 5 dB to 10 dB as determined by the Building Official. This may require a qualified professional to design the structure, and may require a third party test to ensure that the structure was built to meet noise reduction standards prior to occupancy.

2. Replacement Dwellings. Where an existing dwelling is located entirely outside, partially inside and partially outside, or entirely inside the 65 dB contour, the replacement dwelling may only be allowed to expand into or further into the 65 dB if the noise level reduction standards described in Subsection 1 above are achieved and one of the following is met:
 - a. No more than 25 percent of habitable floor area of the existing dwelling is allowed to penetrate into or further into the 65 dB contour; or
 - b. More than 25 percent of the habitable floor area of the existing dwelling is allowed to penetrate into or further into the 65 dB contour with an approved variance (Article 66) and justification that shows special conditions or physical limitations on the site make the proposal the most feasible option.
3. Existing Dwellings. Where an existing dwelling is located entirely outside, partially inside and partially outside, or entirely inside the 65 dB contour, the existing dwelling may only be allowed to expand into or further into the 65 dB contour area if the noise level reduction standards described in Subsection 1 above are achieved and one of the following are met:
 - a. No more than 25 percent of habitable floor area of the existing dwelling is allowed to penetrate into or further into the 65 dB contour; or
 - b. More than 25% of the habitable floor area of the existing dwelling is allowed to penetrate into or further into the 65 dB contour with an approved variance (Article 66) and justification that shows special conditions or physical limitations on the site make the proposal the most feasible option.
4. Additions and Alterations. Where existing construction is altered or additions are proposed, all newly constructed portions of dwellings within the 65 dB contour shall meet the 25 to 30 dB standard, while all remaining unaltered portions of the dwelling are exempt.
5. Exemptions. Non-habitable structures, such as garages and outbuildings, as well as minor repairs to existing dwellings (e.g. broken windows or roof repairs) are exempt from the noise level reduction standards.
6. Non-Residential Uses. Additional uses that are consistent with the base zone may be permitted with limitations as outlined in the Noise Compatibility Table 37.1 below, which was adapted from Exhibit 5 of OAR 660-013, Airport Planning Rule.

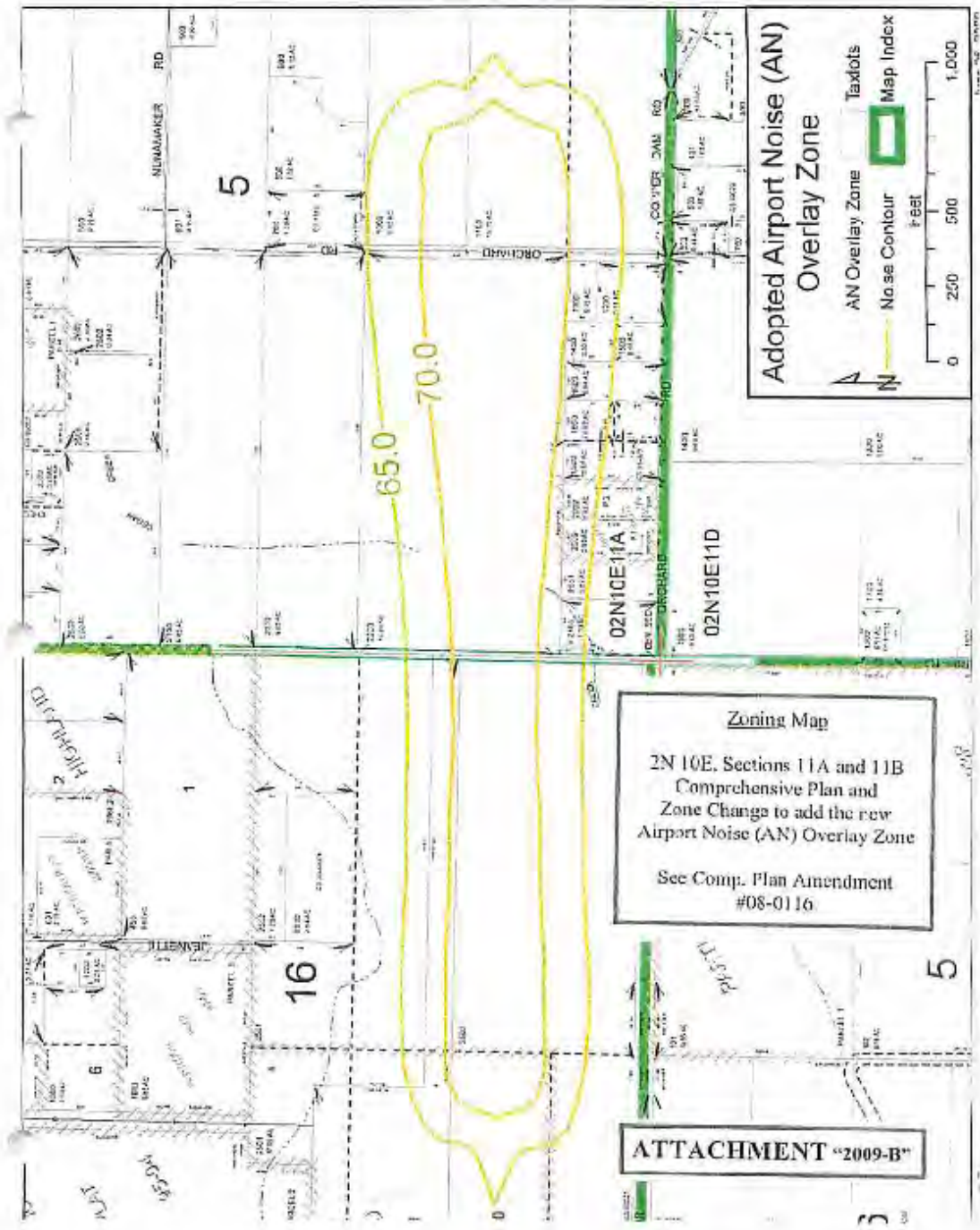
Noise Compatibility Table 37.1		
Land Use	Yearly Day-Night Sound Levels (DNL) in Decibels	
	65-70	70-75
Residential		
Residential Dwellings	N ¹	N ¹
Mobile Homes	N	N
Transient Lodging (motels and hotels)	N ¹	N ¹
Public Use		
Schools	N ¹	N ¹
Churches, auditoriums, concert halls, hospitals, nursing homes	25	30
Government Services	Y	25
Transportation/Parking	Y	Y ²
Commercial		
Offices-business and professional	Y	25
Wholesale/retail-materials, hardware and farm equipment	Y	Y ²
Retail trade-general	Y	25
Utilities	Y	Y ²
Communications	Y	25
Manufacturing		
Manufacturing-general	Y	Y ²
Photographic and optical	Y	25
Agriculture (except livestock) and forestry	Y ⁴	Y ⁵
Livestock farming and breeding	Y ⁴	Y ⁵
Mining and fishing, resource production and extraction	Y	Y
Recreation		
Outdoor sports arenas/spectator sports	Y ³	Y ³
Outdoor music shells, amphitheatres	N	N
Nature exhibits and zoos	N	N
Amusement parks, resorts, camps	Y	Y
Golf courses, riding stables, water recreation	Y	25

Key:

- Y (Yes) Land Use and related structures compatible without restrictions.
N (No) Land Use and related structures are not compatible and should be prohibited.
NLR Noise Level Reduction (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of the structure.
DNL Average Day-Night Sound Level
25, 35 Land Use and related structures generally compatible; measures to achieve NLR of 25 or 30 dB must be incorporated into design and construction of structure.

Table 37.1 Notes:

1. Where a community determined that residential or school uses must be allowed, measures to achieve an outdoor to indoor Noise Level Reduction (NLR) of at least 25 dB and 30 dB should be incorporated into building codes and be considered in individual approvals. Normal residential construction can be expected to provide a NLR of 20 dB, thus, the reduction requirements are often stated as 5, 10, or 15 dB over standard construction and normally assume mechanical ventilation and closed windows year round. The use of NLR criteria will not, however, eliminate outdoor noise problems.
2. Measures to achieve NLR of 25 dB must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas, or where the normal noise level is low.
3. Land use compatible provided special sound reinforcement systems are installed.
4. Residential Buildings require an NLR of 25 dB.
5. Residential Buildings require an NLR of 30 dB.

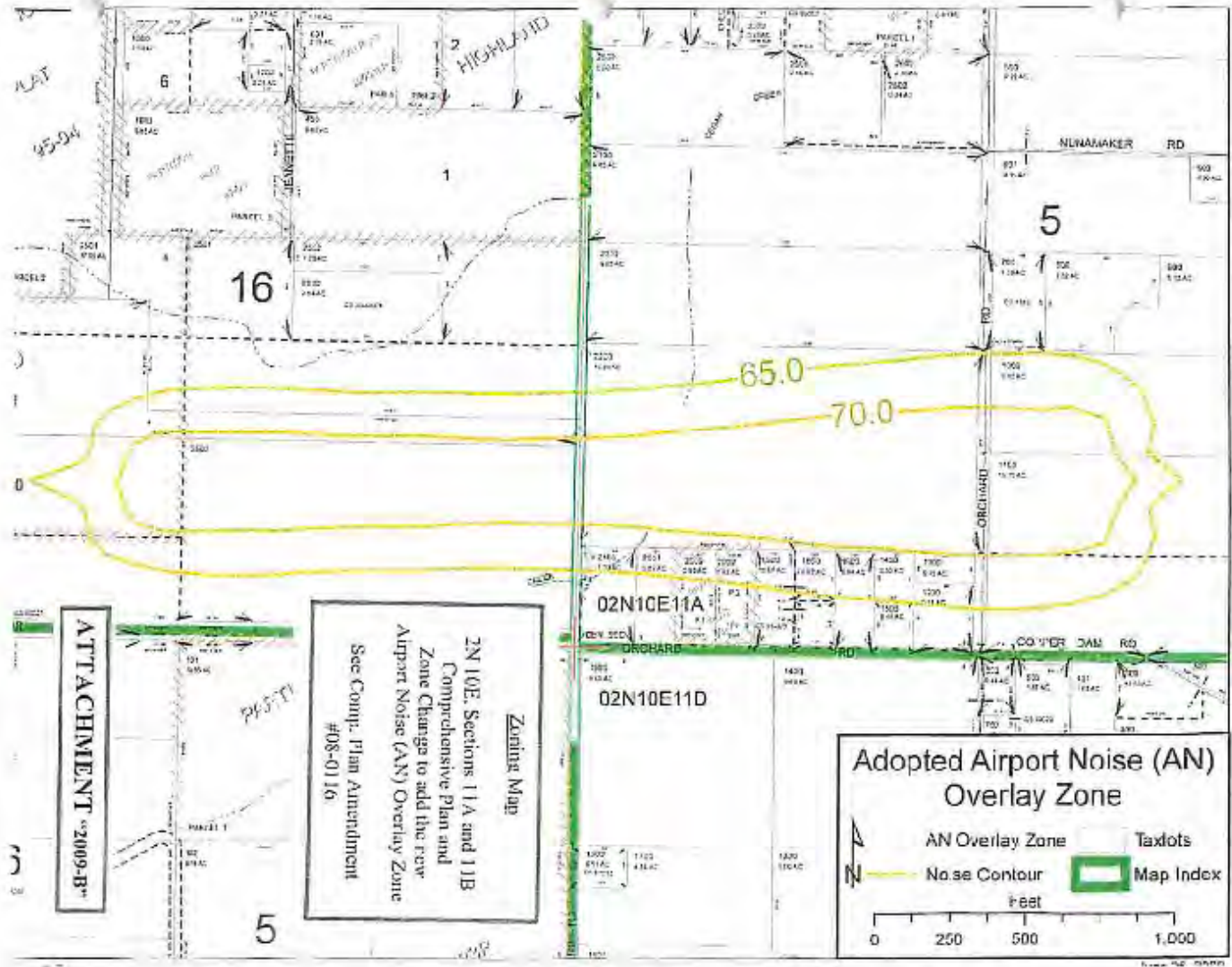


Attachment "A" – Article 37

**Attachment A
and Attachment B**

Attachment B:

Article 37 – Airport Noise (AN) Overlay Zone



Appendix C





ASSURANCES

Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1 2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.¹
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

Executive Orders

- a. Executive Order 11246 - Equal Employment Opportunity¹
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 - Environmental Justice

Federal Regulations

- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].^{4, 5, 6}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- m. 49 CFR Part 20 - New restrictions on lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.

- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.^{1 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.¹
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

Specific Assurances

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

Footnotes to Assurance C.1.

¹ These laws do not apply to airport planning sponsors.

² These laws do not apply to private sponsors.

³ 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

⁴ On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.

⁵ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.

⁶ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and

has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans,

specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal,

state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
 - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, 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 circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or

to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

- 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or 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.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
 - d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
 - e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
 - f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
 - g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
 - h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
 - i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, 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, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or

operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

- 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
 - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
 - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing
 - 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 - 2) 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;

- 3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and
 - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.
- b. Applicability
 - 1) Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 - 2) Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.

- 3) Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.
- c. Duration.
- The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:
- 1) So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
 - 2) So long as the sponsor retains ownership or possession of the property.
- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:
- “The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”
- e. Required Contract Provisions.
- 1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
 - 2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
 - 3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
 - 4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a

covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:

- a) For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b) For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another

eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated _____ (the latest approved version as of this grant offer) and included in this grant, and in accordance

with applicable state policies, standards, and specifications approved by the Secretary.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
 - 1) Describes the requests;
 - 2) Provides an explanation as to why the requests could not be accommodated; and
 - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.