

1 - August 24, 2021 agenda

2 - Airport Sponsor Responsibilites

3 - Mid-year Analysis_Gunnison County Fiscal Standing

GUNNISON COUNTY BOARD OF COMMISSIONERS
MEETING NOTICE

DATE: Tuesday, August 24, 2021
PLACE: Board of County Commissioners' Meeting Room at the Gunnison County Courthouse
200 E. Virginia Avenue, Gunnison, CO 81230
(Remote Option, below)

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS WORK SESSION:

- 8:30 am • White River National Forest, Aspen-Sopris Ranger District; Maroon Bells-Snowmass Wilderness Overnight Fee Proposal
- 9:00 am • Airport Sponsor Responsibilities
- 9:45 am • Mid-year Analysis of Gunnison County's Fiscal Standing
- Adjourn

Please Note: Packet materials for the above discussions will be available on the Gunnison County website at <http://www.gunnisoncounty.org/meetings> prior to the meeting.

ZOOM MEETING DETAILS:

Join Zoom Meeting

<https://us02web.zoom.us/j/88336680665?pwd=MVhiUzIBZnRrNjdma0JoUllXUzRaUT09>

Meeting ID: 883 3668 0665

Passcode: 149941

One tap mobile

+16699006833,,88336680665#,,,,*149941# US (San Jose)

+12532158782,,88336680665#,,,,*149941# US (Tacoma)

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Airport Sponsor Responsibilities

Action Requested: Discussion

Parties to the Agreement: FAA

Term Begins:

Term Ends:

Grant Contract #:

Summary:

The County Attorney's office asked if these documents could be added in with the other documents for Tuesday's Airport discussion at the workshop.

Fiscal Impact:

Submitted by: Stephanie Williams

Submitter's Email Address: swilliams@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Reviewed by: GUNCOUNTY1\egaebler

Discharge Date: 8/20/2021

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/20/2021

Consent Agenda Regular Agenda Worksession

Time Allotted: 45

Agenda Date: 8/24/2021

Appendix Z ► Definitions and Acronyms

§	Section
%HA	Percentage of area population characterized as “highly annoyed” by long-term exposure to noise of a specified level.
1970 Airport Act	Airport and Airway Development Act of 1970; (P.L. No. 91-258); (Section 23, nonsurplus property)
1987 Airport Act	Airport and Airway Safety and Capacity Expansion Act of 1987; (P.L. No. 100-223)
1994 Authorization Act	FAA Authorization Act of 1994; (P.L. No. 103-305)
1996 Reauthorization Act	FAA Reauthorization Act of 1996; (P.L. No. 104-264)
Act of 1987	Airport and Airway Safety and Capacity Expansion Act of 1987; (P.L. No. 100-223)
AAIA	Airport and Airway Improvement Act of 1982; (P.L. No. 97-248); (Section 516, nonsurplus property)
AC	Advisory circular. A document published by the Federal Aviation Administration (FAA) giving guidance on aviation issues.
ACO	FAA Office of Airport Compliance and Field Operations
Act of 1938	Civil Aeronautics Act of 1938
Act of 1944	Surplus Property Act (SPA) of 1944; (regulation 16)
Act of 1946	Federal Airport Act of 1946; (P.L. No. 79-377)); (Section 16, nonsurplus property)
Act of 1958	Federal Aviation Act of 1958 (FAA Act)
Act of 1970	Airport and Airway Development Act of 1970; (P.L. No. 91-258); (Section 23, nonsurplus property)
Act of 1973	Airport Development Acceleration Act of 1973 (P.L. No. 93-44)
Act of 1982	Airport and Airway Improvement Act of 1982 (AAIA); (P.L. No. 97-248); (Section 516, nonsurplus property)
Act of 1987	Airport and Airway Safety and Capacity Expansion Act of 1987; (P.L. No. 100-223)
Act of 1990	Aviation Safety and Capacity Expansion Act of 1990 (P.L. No. 101-508)

Act of 1994	FAA Authorization Act of 1994; (P.L. No. 103-305)
Act of 1996	FAA Reauthorization Act of 1996; (P.L. No. 104-264)
ADAP	Airport Development Aid Program
ADO	Airports district office. These offices are outlying units or extensions of regional airport divisions.
ADR	Alternative Dispute Resolution
AEE	FAA Office of Environment and Energy (AEE-100)
Aeronautical Activity	<p>Any activity that involves, makes possible, or is required for the operation of aircraft or that contributes to or is required for the safety of such operations. It includes, but is not limited to:</p> <ul style="list-style-type: none"> • Air taxi and charter operations. • Scheduled or nonscheduled air carrier services. • Pilot training. • Aircraft rental and sightseeing. • Aerial photography. • Crop dusting. • Aerial advertising and surveying. • Aircraft sales and service. • Aircraft storage. • Sale of aviation petroleum products. • Repair and maintenance of aircraft. • Sale of aircraft parts. • Parachute activities. • Ultralight activities. • Sport pilot activities • Military flight operations
AFD	Airport facility directory
AFRPA	Air Force Real Property Agency
AGL	Height above ground level
AIP	Airport Improvement Program. The AIP is authorized by the Airport and Airway Improvement Act of 1982 (AAIA) (P.L. No. 97-248, as amended). The broad objective of the AAIA

is to assist in the development of a nationwide system of public use airports adequate to meet the current and projected growth of civil aviation. The AAIA provides funding for airport planning and development projects at airports included in the National Plan of Integrated Airport Systems. The AAIA also authorizes funds for noise compatibility planning and to carry out noise compatibility programs as set forth in the Aviation Safety and Noise Abatement Act of 1979 (P.L. No. 96-143).

AIR-21	Wendell H. Ford Aviation Investment and Reform Act for the 21 st Century
Airport	An area of land or water which is used, or intended to be used, for the aircraft takeoff and landing. It includes any appurtenant areas used, or intended to be used, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon. It also includes any heliport.
Airport Hazard	Any structure or object of natural growth located on or in the vicinity of a public use airport, or any use of land near such an airport that obstructs the airspace required for the flight in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.
Airport Noise Compatibility Program	That program and all revisions thereto, reflected in documents (and revised documents) developed in accordance with Appendix B to Part 150, Airport Noise Compatibility Planning,, including the measures proposed or taken by the airport owner to reduce existing incompatible land uses and to prevent the introduction of additional incompatible land uses within the area.
Airport Sponsor	A public agency or tax-supported organization such as an airport authority, that is authorized to own and operate the airport, to obtain property interests, to obtain funds, and to be able to meet all applicable requirements of current laws and regulations both legally and financially.
ALP	Airport Layout Plan. A plan showing the orientation and location of key airport facilities, such as runways and navigational aids, that must be planned with consideration for approach zones, prevailing winds, airspace use, land contours and many other special factors. The dimensional relationships even within the airport boundaries, between operational and support facilities and allocation of reasonable space to allow for orderly expansion of individual functions

must be clearly established in advance. This is essential if such facilities are to be subsequently positioned where they can best serve their intended purposes while conforming to applicable safety and construction criteria.

ALUC	Airport Land Use Commission
AMSL	Site elevation above mean sea level
ANCA	Airport Noise and Capacity Act of 1990
ANG	Air National Guard
AOPA	Aircraft Owners and Pilots Association
A&P	Airframe and power plant mechanic
AP-4 Agreement	Agreement between the sponsor and the federal government in which the airport sponsor provided the land and the federal government developed the airport.
Approach Surface	A surface defined by FAR Part 77 "Objects Affecting Navigable Airspace," that is longitudinally centered on the runway centerline and extends outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based on the type of approach available or planned for that runway end.
ARC	Air Reserve Component
ARFF	Aircraft Rescue and Fire Fighting
ARP	FAA Office of Airports
ASAC	Aviation Security Advisory Committee
ASNA	Aviation Safety and Noise Abatement Act of 1979; (P.L. No. 96-193).
Assurance	An assurance is a provision contained in a federal grant agreement to which the recipient of federal airport development assistance has voluntarily agreed to comply in consideration of the assistance provided.
AT	Air Traffic
ATA	Air Transport Association of America
ATC	Air Traffic Control
ATCT	Air Traffic Control Tower
ATSA	Aviation and Transportation Security Act
Aviation Easement	A grant of a property interest in land over which a right of unobstructed flight in the airspace is established.

Aviation Use of Real Property	Aeronautical property. All property comprising the land, airspace, improvements, and facilities used or intended to be used for any operational purpose related to, in support of, or complementary to the flight of aircraft to or from the airfield. It is not confined to land areas or improvements eligible for development with federal aid (FAAP/ADAP/AIP) or to property acquired from federal sources. In addition to the areas occupied by the runways, taxiways, and parking aprons, aeronautical property includes any other areas used or intended to be used for supporting services and facilities related to the operation of aircraft. It also includes property normally required by those activities that are complementary to flight activity such as convenience concessions serving the public including, but not limited to, shelter, ground transportation, food, and personal services.
AWOS	Automated Weather Observation System
Based Aircraft	An aircraft permanently stationed at an airport by agreement between the aircraft owner and the airport management.
BLM	Bureau of Land Management
BRAC	Base Realignment and Closure
BRL	Building restriction lines
Building Codes	Codes, either local or state, that control the functional and structural aspects of buildings and/or structures. Local ordinances typically require proposed buildings to comply with zoning requirements before building permits can be issued under the building codes.
CAA	Civil Aeronautics Administration
CAB	Civil Aeronautics Board
CAP	Civil Air Patrol
CEQ	Council of Environmental Quality
CFI	Certificated Flight Instructor
CFR	Code of Federal Regulations
CGL	Compliance Guidance Letter
CIP	Capital Improvement Program. It consists of the five-year eligible capital requirements at designated airports. It is not a funding plan since the actual funding of development will depend on annual limitations for the Airport Improvement Program (AIP) as imposed by Congress. The CIP provides a systematic approach to identify unmet needs, determine

optimum distribution of available grant funds, foster cooperation among states, local, and federal authorities, advise and inform the public, identify problems and determine their impacts on the system, and provide FAA with a rational, need-based process for distribution of limited airport grant funds. It also provides a basis for responding to new legislative proposals

Concurrent Land Use	Land that can be used for more than one purpose at the same time. For example, portions of land needed for clear zone purposes could also be used for agriculture purposes at the same time.
CNEL	Community Noise Equivalent Level
CO-OP	Fuel cooperative organization
CPI	Consumer Price Index
CWA	Civil Works Administration
dB	decibel
dB(A)	A-weighted sound levels in decibels
DBE	Disadvantaged Business Enterprise
DCLA	Development of Civil Landing Areas
DD	Director's Determination
DLAND	Development of Landing Areas for National Defense
DNL	Day-night average sound level
DoD	Department of Defense
DOI	Department of Interior
DOJ	Department of Justice
DOT	Department of Transportation
EA	Environmental Assessment
EIR	Environmental Impact Report
EIS	Environmental Impact Statement. A document that provides full and fair discussion of the significant environmental impacts that would occur as a result of a proposed project and informs decision makers and the public of the reasonable alternatives that would avoid or minimize adverse impacts.
Enplanement	Counting of a passenger boarding of a commercial flight.
EPA	Environmental Protection Agency

EPNdB	Effective Perceived Noise Level in decibels
Exclusive Right	A power, privilege, or other right excluding or debarring another from enjoying or exercising a like power, privilege, or right. An exclusive right can be conferred either by express agreement, by the imposition of unreasonable standards or requirements, or by any other means. Such a right conferred on one or more parties, but excluding others from enjoying or exercising a similar right or rights, would be an exclusive right.
Exhibit "A"	Airport land depicted on property map attached to the Airport Layout Plan (ALP).
FAA	Federal Aviation Administration
FAA Act	Federal Aviation Act of 1958
FAAP	Federal Aid to Airports Program
FAD	Final Agency Decision; Final Decision and Order
FAR	Federal Aviation Regulations. (These are found in Title 14 Code of Federal Regulations (CFR)).
FBI	Federal Bureau of Investigation
FBO	Fixed-base operator. An individual or firm operating at an airport and providing general aircraft services such as maintenance, storage, and ground, and flight instruction.
FCC	Federal Communications Commission
F&E	Facilities and Equipment (funding source)
Federal Agency	For purposes of the compliance program, an agency of the federal government. This does include the certain elements of the National Guard or the Air Guard as they may be controlled by the National Guard Bureau in Washington, DC, as an element of the Department of Defense.
Federal Funds	Money or property conveyed from the United States Government. Any airport that consists in whole or in part of property, improvements, or other assets conveyed by the United States Government -- without monetary consideration -- for airport purposes, or that was acquired, developed, or improved with federal assistance must be considered as an airport upon which federal funds have been expended.
FICAN	Interagency Committee on Aviation Noise
FICON	Federal Interagency Committee on Noise
FICUN	Federal Interagency Committee on Urban Noise

FMV	Fair Market Value. The highest price estimated in terms of money that a property will bring if exposed for sale in the open market allowing a reasonable time to find a purchaser or tenant who buys or rents with knowledge of all the uses to which it is adapted and for which it is capable of being used. It is also frequently referred to as the price at which a willing seller would sell and a willing buyer buy, neither being under abnormal pressure. FMV will fluctuate based on the economic conditions of the area.
FOIA	Freedom of Information Act
FONSI	Finding of No Significant Impact. A document briefly explaining the reasons an action will not have a significant effect on the human environment and therefore justifies the decision not to prepare an Environmental Impact Statement (EIS). A FONSI is issued by the federal agency following the preparation of an environmental assessment.
FR	Federal Register
FS	Flight Standards
FSDO	Flight Standards District Office
FSS	Flight Service Station
FY	Fiscal Year
GA	General Aviation
Government Aircraft	For purposes of the compliance program, federal government aircraft is defined as aircraft owned or leased to the federal government. This includes all aircraft operated by National Guard Army units and Air National Guard units.
Grant Agreement	A grant agreement represents any agreement made between the FAA (on behalf of the United States) and an airport sponsor in which the airport sponsor agrees to certain assurances. In general, the airport sponsor assures it will operate the airport for the use and benefit of the public as an airport for aeronautical purposes. The grant agreement and assurances will apply whether the airport sponsor receives the grant of federal funding or a conveyance of land.
GSA	General Services Administration
HQ	Headquarters
ICAO	International Civil Aviation Organization
IFR	Instrument Flight Rules

Independent Operator	A commercial operator offering a single aeronautical service but without an established place of business on the airport. An airport sponsor may or may not allow this type of servicing to exist on the airport.
INM	Integrated Noise Model. The FAA computer model used by the civilian aviation community for evaluating aircraft noise impacts near airports. The INM uses a standard database of aircraft characteristics and applies them to an airport's average operational day to produce noise contours.
Instrument Approach	A series of predetermined maneuvers for the orderly transfer of an aircraft under instrument flight conditions from the beginning of the initial approach to a landing or to a point from which a landing may be made visually.
Interim Use	Interim use of aeronautical property for nonaviation purposes. An interim use is defined as a temporary short term (normally not to exceed 3 years) nonaviation use of aeronautical property conveyed to, or acquired by, the airport sponsor.
IP	Information Publication
Land Use Compatibility	The coexistence of land uses surrounding the airport with airport-related activities.
Land Use Controls	Measures established by state or local government that are designed to carry out land use planning. Among other measures, the controls include: zoning, subdivision regulations, planned acquisition, easements, covenants or conditions in building codes and capital improvement programs, such as establishment of sewer, water, utilities or their service facilities.
Land Use Management Measures	Land use management techniques that consist of both remedial and preventive measures. Remedial or corrective measures typically include sound insulation or land acquisition. Preventive measures typically involve land use controls that amend or update the local zoning ordinance, comprehensive plan, subdivision regulations and building code.
Landing Area/Airfield	Any locality, either of land or water, including airports and intermediate landing fields, used or intended to be used for taking off and landing aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo. (Definition in Federal Aviation Act, Section 101.)

Landside	That part of an airport used for activities other than the movement of aircraft, such as vehicular access roads and parking.
LEP	Limited English proficiency
Local Operation	Any operation performed by an aircraft that: <ul style="list-style-type: none"> operates in the local traffic pattern or within sight of the tower or airport, or is known to be departing for, or arriving from, flight in local practice areas located within a 20-mile radius of the control tower or airport, or executes a simulated instrument approach or low pass at the airport.
LOI	Letter of Intent
Long Term Lease	A lease with a term of five (5) years or more.
LRA	Local Redevelopment Authority
MAP	Military Airport Program
Mediation	The use of a mediator or co-mediators to facilitate open discussion between disputants and assist in negotiating a mutually agreeable resolution. Mediation is a method of alternative dispute resolution that provides an initial forum to settle disputes informally prior to regulatory intervention on the part of the FAA.
Minimum Standards	The qualifications or criteria that may be established by an airport owner as the minimum requirements that must be met by businesses engaged in on-airport aeronautical activities for the right to conduct those activities.
Mitigation	The avoidance, minimization, reduction, elimination, or compensation for adverse environmental effects of a proposed action.
Mitigation Measure	An action taken to alleviate adverse impacts.
MoGas	Automotive gasoline
MTOW	Maximum certificated takeoff weight
NADP	Noise Abatement Departure Procedures
NAS	National Airspace System
NAS	Naval Air Station
NASA	National Aeronautics and Space Administration

NASAO	National Association of State Aviation Officials
NATA	National Air Transportation Association
NBAA	National Business Aviation Association
NCP	Noise Compatibility Plan. The NCP consists of an optimum combination of preferred noise abatement and land use management measures and a plan for the implementation of the measures. For planning purposes, the implementation plan also includes the estimated cost for each of the recommended measures to the airport sponsor, the FAA, airport users, and the local units of government.
NDB	Nondirectional beacon
NEF	Noise exposure forecast
NEM	Noise Exposure Map. The NEM is a scaled map of the airport, its noise contours and surrounding land uses. The NEM depicts the levels of noise exposure around the airport, both for the existing conditions and forecasts for the five-year planning period. The area of noise exposure is designated using the DNL (day-night average sound level) noise metric.
NEPA	National Environmental Policy Act of 1969. The original legislation establishing the environmental review process.
Net Proceeds	The sum derived from a lease sale, salvage or other disposal of airport property at fair market value (FMV) after deductions or allowances have been made for directly related expenses such as advertising, legal services, surveys, appraisals, taxes, commissions, title insurance, and escrow services.
NEUP	National Emergency Use Provision
NLR	Noise Level Reduction. The amount of noise level reduction in decibels achieved through incorporation of noise attenuation (between outdoor and indoor levels) in the design and construction of a structure.
NOAA	National Oceanic and Atmospheric Administration
NOI	Notice of Investigation
Noise Exposure Contours	Lines drawn about a noise source indicating constant energy levels of noise exposure. DNL is the measure used to describe community exposure to noise.
Noise-sensitive Area	Area where aircraft noise may interfere with existing or planned use of the land. Whether noise interferes with a particular use depends upon the level of noise exposure and

the types of activities that are involved. Residential neighborhoods, educational, health, and religious structures and sites, outdoor recreational, cultural and historic sites may be noise sensitive areas.

NOTAM	Notice to Airmen
NPIAS	National Plan of Integrated Airport Systems
NPRM	Notice of Proposed Rule Making
NRA	Non-Rulemaking Actions/Airports Airspace Analysis
NTSB	National Transportation Safety Board
Obstruction	Natural or manmade objects that penetrate surfaces defined in 14 CFR Part 77, <i>Objects Affecting Navigable Airspace</i> .
OE	Operational Error
OE/AAA	Obstruction Evaluation/Airport Airspace Analysis
OFZ	Object free zone
OIG	Office of the Inspector General
OMB	Office of Management and Budget
OPI	Office of Primary Interest
PD	Pilot Deviation
PCI	Pavement Condition Indicator
PFC	Passenger Facility Charge. The PFC program, first authorized by the Aviation Safety and Capacity Expansion Act of 1990 and now codified under Section 40117 of Title 49 U.S.C., provides a source of additional capital to improve, expand, and repair the nation's airport infrastructure. The legislation allows public agencies controlling commercial service airports to charge enplaning passengers using the airport a facility charge. The FAA must approve any facility charges imposed on enplaning passengers.
PGP	Planning Grant Program
PIC	Pilot-in-command
P.L.	Public Law
Private-use Airport	A publicly owned or privately owned airport not open to the public
Proprietary Exclusive	The owner of a public use airport (public or private owner) may elect to provide any or all of the aeronautical services needed by the public at the airport. In fact, the statutory

prohibition against exclusive rights does not apply to these owners; they may exercise, but not grant, the exclusive right to conduct any aeronautical activity. However, the sponsor that elects to engage in a proprietary exclusive must use its own employees and resources to carry out its venture. An independent commercial enterprise that has been designated as agent of the owner may not exercise, nor be granted, an exclusive right.

Public Airport	An airport used or intended to be used for public purposes: <ul style="list-style-type: none"> • that is under the control of a public agency and • that is used or intended to be used for the landing, taking off, or surface maneuvering of aircraft.
Public-use Airport	A public airport or a privately owned airport used or intended to be used for public purposes. Examples: <ul style="list-style-type: none"> • a reliever airport • an airport determined by the Secretary of Transportation to have at least 2,500 passenger enplanements each year and offering scheduled passenger aircraft service.
Quit Claim Deed	A deed that transfers the exact interest in real estate of one to another.
RAA	Regional Airline Association
RIAT	Runway Incursion Action Team
ROFA	Runway object free area.
RPZ	Runway Protection Zone. A trapezoidal-shaped area centered on the extended runway centerline that is used to enhance the safety of aircraft operations. It begins 200 feet beyond the end of the runway or area usable for takeoff or landing. The RPZ dimensions are functions of the design aircraft, type of operation, and visibility minimums.
RSA	Runway Safety Area. The runway safety area (RSA) is an airport design standard established by the FAA as a safety enhancement to protect aircraft. The RSA is an integral part of the runway environment. The RSA is a defined surface surrounding the runway prepared or suitable for reducing the risk of damage to aircraft in the event of an undershoot, overshoot, or veer-off from the runway. The RSA is intended to provide a measure of safety by significantly reducing the extent of personal injury and aircraft damage.
RSP	Runway Safety Program

RSAT	Runway Safety Action Team
Runway incursion	Any occurrence at an airport with an Air Traffic Control Tower involving an aircraft, vehicle, person, or object on the ground that creates a collision hazard or results in a loss of separation with an aircraft taking off, intending to take off, landing, or intending to land.
SAR	Search and Rescue
SBGA	State block grant agencies
SBGP	State block grant program
SBGS	State block grant state
Sound Attenuation	Acoustical phenomenon whereby a reduction of sound energy is experienced between the noise source and the receiver. This energy loss can be attributed to atmospheric conditions, terrain, vegetation, constructed features (e.g., sound insulation) and natural features.
SEL	Sound Exposure Level. A measure of the physical energy of the noise event that takes into account both intensity and duration. By definition SEL values are referenced to a duration of one second. SEL is higher than the average and the maximum noise levels as long as the event is longer than one second. Sound exposure level is expressed in decibels (dB). People do not hear SEL.
Self-fueling and Self-service	The fueling or servicing of an aircraft by the owner of the aircraft or the owner's employee. Self-fueling means using fuel obtained by the aircraft owner from the source of his/her preference. Self-service includes activities such as adjusting, repairing, cleaning, and otherwise providing service to an aircraft, provided the service is performed by the aircraft owner or his/her employees with resources supplied by the aircraft owner. Part 43 of the Federal Aviation Regulations permits the holder of a pilot certificate to perform specific types of preventative maintenance on any aircraft owned or operated by the pilot.
SPA	Surplus Property Act of 1944 (P.L. No. 80-289)
Tenant	A person or organization occupying space or property on an airport under a lease or other agreement.
TRACON	Terminal Radar Approach Control
TSA	Transportation Security Administration
TSR	Transportation Security Regulations

UNICOM	Non-government air/ground radio communication station. It may provide airport information at public use airports where there is neither a tower nor a Flight Service Station.
Uniform Act	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended
U.S.	United States
U.S.C.	United States Code
U.S.D.A.	Department of Agriculture
USGS	United States Geological Survey
USN	United States Navy
Variance	An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance or use of land that is prohibited by a zoning ordinance. This is a lawful exception from specific zoning ordinance standards and regulations predicated on the practical difficulties and/or unnecessary hardships on the petitioner being required to comply with those regulations and standards from which an exemption or exception is sought.
VASI	Visual Approach Slope Indicator
VFR	Visual Flight Rule
Visual Approach	An approach to an airport conducted with visual reference to the terrain.
VOR	Very High Frequency Omnidirectional Radio Range. (A dead reckoning ground based navigational aid.)
V/PD	Vehicle Pedestrian Deviation
WAA	War Assets Administration
Zoning	The partitioning of land parcels in a community by ordinance into zones, and the establishment of regulations in the ordinance to govern the land use and the location, height, use, and land coverages of buildings within each zone. The zoning ordinance usually consists of text and zoning maps. A zoning ordinance is primarily a legal document that allows a local government effective and legal regulation over uses of property while protecting and promoting the public interest.

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Chapter 9. Unjust Discrimination between Aeronautical Users

9.1. Introduction. This chapter contains guidance on the sponsor's responsibility to make the airport available on reasonable terms and without unjust discrimination. This guidance is primarily economic and focuses on charging comparable rates to similarly situated aeronautical users. Issues of unjust discrimination arising from access restrictions are addressed in chapters 13, *Airport Noise and Access Restrictions*, and 14, *Restrictions Based on Safety and Efficiency Procedures and Organization*, respectively. It is the responsibility of the airports district offices (ADOs) and regional airports divisions to advise sponsors on their obligations in this area.

a. Federal Grant Obligations. Grant Assurance 22, *Economic Nondiscrimination*, requires the sponsor to make its aeronautical facilities available to the public and its tenants on terms that are reasonable and without unjust discrimination. This federal obligation involves several distinct requirements.

First, the sponsor must make the airport and its facilities available for public use.

Next, the sponsor must ensure that the terms imposed on aeronautical users of the airport, including rates and charges, are reasonable for the facilities and services provided.

Finally the terms must be applied without unjust discrimination.

The prohibition on unjust discrimination extends to types, kinds and classes of aeronautical activities, as well as individual members of a class of operator. This is true whether these terms are imposed by the sponsor or by a licensee or tenant offering services or commodities normally required at the airport. The tenant's commercial status does not relieve the sponsor of its obligation to ensure the terms for services offered to aeronautical users are fair and reasonable and without unjust discrimination. (See



An air carrier that assumes the same obligations imposed on other tenant air carriers shall enjoy the same classification and status. This applies to rates, fees, rentals, rules, regulations, and conditions covering all the airport's aeronautical activities. (Photo: FAA)

paragraph 12.5.a of this Order.)
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b. Other Federal Obligations.

These same requirements apply to the Federal Aid to Airports Program (FAAP) and the Airport Development Aid Program (ADAP) agreements. These requirements are also reflected in surplus property and nonsurplus property agreements.

9.2. Rental Fees and Charges: General.

a. Comparable Rates, Fees, and Rentals. For facilities that are directly and substantially related to air transportation, regardless of whether an air carrier or user is a tenant, subtenant, or nontenant, the sponsor must impose nondiscriminatory and substantially comparable rates, fees, rentals, and charges on all air carriers and users that assume similar obligations, use similar facilities, and make similar use of the airport.

Aside from rates, fees, and rentals, the sponsor must also impose comparable rules, regulations, and conditions on the use of the airport by its air carriers and users, regardless of whether they are tenants, subtenants, or nontenants.

b. Signatory and Nonsignatory Air Carriers.

The sponsor may establish a separate rate, fee, and rental structure for the use of airport facilities depending on whether an air carrier chooses to assume the obligations of a signatory carrier to a sponsor's



An airport might have fixed-base operators (FBOs) that provide commercial services such as the sale of aviation fuel and oil, tie-down and aircraft parking facilities, ramp services, flight training, aircraft sales, or avionics repair. Some FBOs may not be similarly situated, especially in regard to investment in facilities. A sponsor may have different fee schedules for FBOs not similarly situated. One of the most common and needed aeronautical services is aircraft parking. In the photograph above, the typical tie-down spot and rigging is illustrated. Another common aeronautical service is aircraft sales, shown below. (Photos: FAA)



²⁷ The obligations under the grant assurances to afford reasonable access extends only to aeronautical users engaging in aeronautical activities. The grant assurance obligations do not extend to nonaeronautical users.

airport use agreement or chooses not to assume those obligations and be classified as a nonsignatory carrier. The primary obligation of a signatory is to lease space in airport facilities and commit to long-term financial support of the development and operation of the airport. The debt for airport facilities is typically secured by signatory tenant leases. In return for their financial commitment, signatory carriers may have a rate, fee, and rental structure that differs from nonsignatory carriers choosing not to make the same financial commitment. The sponsor cannot unreasonably deny signatory status to an air carrier willing and able to assume the obligations of a signatory carrier.

c. Fixed-base Operators (FBOs).²⁸ The sponsor must impose the same rates, fees, rentals, and other charges on similarly situated fixed-based operators (FBOs) that use the airport and its facilities in the same or similar manner. However, FBOs under different types of sponsor agreements may have different fees and rentals. For example, an FBO leasing a sponsor-owned aeronautical facility may pay more in rent to the sponsor than an FBO that builds and finances its own facility. In the first case, the FBO is not servicing debt while in the second case, the FBO is servicing debt.

d. Changes in Rates Over Time. A sponsor is not foreclosed from revising its rental rate structure from time to time. An airport sponsor does not engage in unjust discrimination simply by imposing different lease terms on carriers and users whose leases have expired. FAA recognizes rate differences based partly on differences in other lease terms and facilities. Ideally, a new rate should be imposed at a time when the rates can be changed for all similarly situated tenants at the same time to avoid any claims of unjust discrimination. In some cases, however, the sponsor will have reason to revise rates even though existing contracts at lower rates have not yet expired. In such cases, the sponsor should make every effort to provide terms for new contracts that will support any difference in rates between new tenants and existing tenants. The sponsor should also consider limiting the term of new agreements to expire when existing agreements expire in order to bring all similarly situated tenants under a common rate structure at one time. While circumstances may allow differences in rental rates among tenants, landing fee schedules generally must be applied uniformly to all similarly situated users at all times (i.e., a signatory rate and a separate nonsignatory rate).

e. Complaints. The FAA does not normally review airport fees or question the fairness or comparability of the sponsor's rates, fees, and rental structure. Accordingly, the FAA normally investigates only upon receipt of a properly documented complaint that alleges sponsor noncompliance with an applicable assurance, such as Grant Assurance 22, *Economic Nondiscrimination*, Grant Assurance 23, *Exclusive Rights*, Grant Assurance 24, *Fee and Rental Structure*, or Grant Assurance 25, *Airport Revenues*.

²⁸ A fixed-base operator (FBO) is a commercial entity providing aeronautical services such as fueling, maintenance, storage, ground and flight instruction, etc., to the public.

f. Additional Information.

Refer to chapter 18 of this Order, *Airport Rates and Charges*, for a further discussion on airport rates and charges, and chapter 15 of this Order, *Permitted and Prohibited Uses of Airport Revenue*, for use of airport revenue.

9.3. Types of Charges for Use of Airport Facilities.

The sponsor may use direct charges (such as landing and tie-down fees) to charge aeronautical users for use of airport facilities. It may also use indirect charges through its FBO such as fuel flowage fees or percentages of gross receipts fees where it factors into the price of fuel and other aeronautical services the cost of providing airport facilities. For example, an FBO may have a ground lease, on which it erects hangars and other facilities, and also pay the sponsor a percentage of the receipts from fuel and aeronautical services provided to aeronautical users.

9.4. Airport Tenant and Concessionaire Charges to Airport Users.

At most airports, profit-motivated private enterprise can best provide fuel, storage, and aircraft service. When negotiating agreements with tenants and concessionaires, it is the sponsor's responsibility to retain sufficient oversight to guarantee that aeronautical users will be treated fairly. A sponsor is encouraged to include a "subordination clause" in its contracts' standard terms and conditions. Such a clause subordinates the sponsor's contract with tenants to



A sponsor may establish two classes of FBO, one serving primarily high performance aircraft and another that caters to piston powered aircraft. Rates that may not be comparable because entities are not similarly situated should, nevertheless, be equitable. (Photos: FAA)



its federal obligations, preserving its rights and powers under Grant Assurance 5, *Preserving Rights and Powers*.

The sponsor has a federal obligation to ensure that aeronautical users have access to airport facilities on reasonable and not unjustly discriminatory terms. The sponsor is not obligated by federal grant agreements or property deeds with the United States to oversee the pricing and services for nonaeronautical concessions such as public parking and ground transportation, food and beverage concessions, and other terminal area concessions.

9.5. Terms and Conditions Applied to Tenants Offering Aeronautical Services.

a. Signatory and Nonsignatory. An air carrier that is willing and able to assume the same obligations assumed by other tenant air carriers shall enjoy the same classification and status. This applies to rates, fees, rentals, rules, regulations, and conditions covering all the airport's aeronautical activities.

b. Signatory Fees and Rentals. The sponsor may



All grant agreements contain an assurance that the sponsor will neither exercise nor grant any right or privilege that would have the effect of preventing the operator of an aircraft from performing any services on its own aircraft with its own employees. Two entities to which this applies are charter operators (below) and flight schools (above). (Photos: FAA).



grant lower fees and rentals to an air carrier willing and able to be a signatory to a sponsor's airport use agreement. When an air carrier is unwilling or unable to become a signatory, the sponsor may charge the air carrier higher nonsignatory rates.

c. Different Rates to Similar Users. If the sponsor can show that different rates are nondiscriminatory and if the rates are substantially comparable, it may charge airport tenants different rates for similar airport uses. For example, the rental rates in different airline terminals may vary because of differences in debt and physical layout of rental and public space, but only to the extent justified by the difference in circumstances.

d. Differences of Value and Use. The FAA may consider factors such as minimum investment requirements, demand, location, venture risk, ownership of facilities, time remaining on contract terms, and condition of facilities as reasons that may justify differing rates. For example, a sponsor may establish two classes of FBO, one serving primarily high performance aircraft and another that caters to piston powered aircraft. Nonetheless, rates that may not be comparable should be equitable.

e. Escalation Provision. Ground leases with terms of five (5) or more years should contain an escalation provision for periodic adjustments based on a recognized economic index. This will facilitate parity between new and established lessees. An escalation provision also helps the sponsor comply with Grant Assurance 24, *Fee and Rental Structure*, which requires the sponsor to make the airport as self-sustaining as possible under the circumstances.

9.6. Fixed-Base Operations and Other Aeronautical Services.

a. Similarity of Facilities. If one FBO rents office and/or hangar space from the sponsor and another leases land from the sponsor and builds its own facilities, the sponsor would have justification for applying different rental rates and fee structures. Even though the operators offer the same services to the public, the cost of their facilities is different due to circumstance.



Grant Assurance 22, Economic Nondiscrimination, requires an airport sponsor to make available suitable areas or space on reasonable terms to those willing and qualified to offer aeronautical services to the public such as air taxi, charter, aircraft storage (hangar), and aircraft maintenance services. An airport sponsor may not have a hangar available for a prospective service provider but might have land available at the airport. In order to make the airport available on reasonable terms, that airport sponsor must, at a minimum, make that land available to the prospective service provider (i.e. through a ground lease) so that it can develop its aeronautical facility. (Photos: FAA).

b. Location. If one FBO is in a prime location and another FBO is in a less advantageous area, the sponsor could logically charge different rental rates and fees to reflect the advantage of the location.

c. Similarity of Services. An airport might have an FBO that provides aeronautical services to air carriers and private operators such as fueling, ramp services, aircraft parking, crew transport, and catering while another FBO may focus only on general aviation (GA) services such as the sale of aviation fuel and oil, tie-down and aircraft parking, ramp services, flight training, aircraft sales, or avionics repair. These differing services may require different space, facilities, and other requirements based on their business needs. If the services are not similar, sponsors are not required to charge the FBOs the same rates. Nonetheless, all rates charged must be equitable.

d. FAA Determination. If the FAA determines that the FBOs at the airport are making the same or similar uses of the airport facilities under the same circumstances, then the same rates, fees, and rental structure will apply

To aid in establishing uniform rates and charges applied to aeronautical activities on the airport, the sponsor should establish minimum standards to be met as a condition for the right to conduct an aeronautical activity on the airport.

e. Minimum Standards. To aid in establishing uniform rates and charges applied to aeronautical activities on the airport, the sponsor should establish minimum standards to be met as a condition for the right to conduct an aeronautical activity on the airport. (See Appendix O of this Order, *Sample Minimum Standards for Commercial Aeronautical Activities*. See also Advisory Circular (AC) 150/5190-7, *Minimum Standards for Commercial Aeronautical Activities*.)

f. New Airport. At a new general aviation airport, the sponsor frequently must offer reduced rental rates and other inducements to attract FBOs. This arrangement recognizes that the FBO may not be profitable for some time. In order to secure FBO services for aeronautical users, the sponsor may provide an incentive rate during an initial startup period, which should run for a specific period of time and be reflected in a written agreement. Once the startup period ends, the airport sponsor should charge the airport standard rates and charges based on current values.

g. Unreasonable Restraint. If the sponsor requires an FBO to procure fuel, services, or supplies from a source that the sponsor provides, the FAA may determine that the requirement is an unreasonable restraint on the FBO's use of the airport and not consistent with Grant Assurance 22, *Economic Nondiscrimination* or Grant Assurance 23, *Exclusive Rights*.

h. Aeronautical Activities Conducted by the Airport Sponsor (Proprietary Exclusive). The sponsor of a public use airport may elect to provide any or all of the aeronautical services needed by the public at the airport. As discussed in chapter 8 of this Order, *Exclusive Rights*, the

statutory prohibition against exclusive rights does not apply to the sponsor-operator of a public use airport. The airport owner may exercise, but not grant, the exclusive right to conduct any aeronautical activity.

However, these owners must engage in such activities as principals using their own employees and resources. An independent commercial enterprise that has been designated as agent of the owner may neither exercise nor be granted an exclusive right at the airport.

(1). As a practical matter, most sponsors recognize that these services are best provided by profit-motivated private enterprise. The exceptions are usually those instances in which a sponsor elects to provide fuel service or aircraft parking. If it does so, whether on an exclusive or nonexclusive basis, it may not refuse to permit an air carrier, air taxi, or flight school to fuel its own aircraft with its own personnel and equipment.

(2). The airport owner may establish reasonable standards covering the refueling, washing, painting, repairing, etc., of aircraft. However, unless the airport owner is providing such services itself on an exclusive basis, it may not refuse to negotiate for the space and facilities needed to meet such standards by an activity willing and qualified to provide aeronautical services to the public.

If the airport sponsor reserves unto itself the exclusive right to sell fuel, it can prevent an airline or air taxi from selling fuel to others, but it must deal reasonably to permit such operators to refuel their own aircraft.

If the airport owner reserves unto itself the exclusive right to sell fuel, it can prevent an airline or air taxi from selling fuel to others, but it must deal reasonably to permit such operators to refuel their own aircraft. The self-service fueling by such flight operators, however, must be done with their own employees and equipment. For information regarding fueling, refer to *Aircraft Fuel Storage, Handling, and Dispensing on Airports*, Advisory Circular (AC) 150/5230-4A. (See chapter 11 of this Order, *Self-service*, for additional information on self-service.)

(3). Aircraft operators do not have a right to bring a third party, such as an oil company, onto the airport to refuel their aircraft. This would be an aeronautical activity undertaken by the fuel company, which has only such rights as the airport owner may confer. It should be noted that air carriers frequently insist on a standard condition in their airport contracts reserving the right to obtain fuel from a supplier of their choice. Under this arrangement, the air carrier-owned fuel can be delivered to the airport fuel farm with fueling handled by the airport's contractors.

9.7. Availability of Leased Space. The sponsor's federal obligation under Grant Assurance 22, *Economic Nondiscrimination*, to operate the airport for the public's use and benefit is not satisfied simply by keeping the runways open to all classes of users. The assurance federally obligates the sponsor to make available suitable areas or space on reasonable terms to those willing and qualified to offer aeronautical services to the public (e.g. air carrier, air taxi, charter, flight training, or crop dusting services) or support services (e.g. fuel, storage, tie-down, or flight

line maintenance services) to aircraft operators. Sponsors are also obligated to make space available to support aeronautical activity of noncommercial aeronautical users (i.e., hangars and tie-down space for individual aircraft owners). This means that unless it undertakes to provide these services itself, the sponsor has a duty to negotiate in good faith for the lease of premises available to conduct aeronautical activities. Since the scope of this federal obligation is frequently misunderstood, the following guidance is offered:

a. Servicing of Aircraft. All grant agreements contain an assurance that the sponsor will neither exercise nor grant any right or privilege that would have the effect of preventing the operator of an aircraft from performing any services on its own aircraft with its own employees. This does not, however, federally obligate the sponsor to lease space to every aircraft operator using the airport. It simply means that any aircraft operator entitled to use the airfield is also entitled to tie down, adjust, repair, clean, and otherwise service its own aircraft, provided it does so with its own employees and conducts self-servicing in accordance with the sponsor's reasonable rules or standards established for such work. Accordingly, the assurance establishes a privilege of self-service, but it does not, by itself, compel the sponsor to lease the facilities necessary to exercise that privilege.

b. Facilities Not Providing Service to the Public. When adequate facilities are otherwise available, Grant Assurance 22, *Economic Nondiscrimination*, does not compel sponsors to lease property to entities that desire to construct facilities for private aeronautical use. Examples would include making property available so that private aircraft owners or flying clubs may construct their own hangars while vacant hangars are available on the airport that can meet the potential tenant's needs. However, if the entity is not able to arrange satisfactory terms for hangar space, facilities, or support services from existing airport entities, the assurance does require the sponsor to lease available property identified on the sponsor's airport layout plan (ALP) for such use to such entities on reasonable terms. (See Grant Assurance 38, *Hangar Construction*, regarding hangars for private aircraft storage.)

c. Activities Offering Services to the Public. If adequate space is available on the airport and the sponsor is not already providing identical aeronautical services, Grant Assurance 22, *Economic Nondiscrimination*, requires the sponsor to negotiate in good faith and on reasonable terms with prospective aeronautical service providers.

If adequate space is available on the airport and the sponsor is not already providing identical aeronautical services, Grant Assurance 22, Economic Nondiscrimination, requires the sponsor to negotiate in good faith and on reasonable terms with prospective aeronautical service providers.

The FAA interprets the willingness of a prospective provider to lease space and invest in facilities as sufficient evidence of a public need for those services. In such a situation, the FAA does not accept a sponsor's claim of insufficient business activity as a valid reason to restrict the prospective provider access to the airport.

9.8. Air Carrier Airport Access.

With the passage of the Airline Deregulation Act of 1978 (Deregulation Act), air carriers have had no restrictions on entry into new markets. Even before the Deregulation Act's passage, however, many airports already operated at or near capacity in terms of ticket counter, gate, and ramp space. Consequently, new air carriers wishing to serve an airport often faced a lack of available facilities. In some instances, established air carriers made space available for the newcomers. However, in other cases, no space was made available, and sponsors subsequently denied the newcomers access to the airport.

a. Mandatory Access. In accordance with Grant Assurance 23, *Exclusive Rights*, which prohibits a sponsor from directly or indirectly conveying an exclusive right to an air carrier, the FAA Office of Chief Counsel determined that a sponsor may not deny an air carrier access solely based on the nonavailability of existing facilities. The sponsor must make some arrangements for accommodations if reasonably possible. Consequently, access issues can often be complex and are not always easy to resolve. (See FAA Docket No. 16-98-05 for additional information, available online.)

b. Reports of denial of access. Grant Assurance 39, *Competitive Access*, requires operators of large and medium hub airports to report to the Secretary any denial of a request by an air carrier for access to the airport. A report is due on February 1st or August 1st if there has been any denial of access in the preceding six-month period.

c. FAA Headquarters Airport Compliance Division (ACO-100) Review. The ADOs or regional airports divisions should notify the ACO-100 if the region cannot develop a feasible solution to an air carrier access situation. The division will coordinate the effort of the regional airports division with the FAA Office of Chief Counsel to achieve a viable solution to the problem.

9.9. Civil Rights. The ADOs or regional airports divisions and the Office of Civil Rights are responsible for enforcing Grant Assurance 30, *Civil Rights*. More information is available at 49 Code of Federal Regulations (CFR) Part 21 *Nondiscrimination in Federally Assisted Programs of the Department of Transportation*, and 150/5100-15, *Civil Rights Requirements for the Airport Improvement Program*, available online.

The Office of Civil Rights advises, represents, and assists the FAA Administrator on civil rights, diversity, and equal opportunity matters that ensure the elimination of unlawful discrimination on the basis of race, color, national origin, sex, age, religion, creed, and individuals with disabilities in federally operated and federally assisted transportation programs.

9.10. FAA Policy on Granting Preferential Treatment Based on Residency. The FAA has received complaints about a sponsor's policy of granting preferential treatment in the assignment of aircraft storage hangars or other services to residents of the sponsor's locality. Such preferential practices are unreasonable and unjustly discriminatory, and can result in the granting of an exclusive right contrary to Grant Assurance 22, *Economic Nondiscrimination*, and Grant

Assurance 23, *Exclusive Rights*, implementing 49 United States Code (U.S.C.) § 40107(a) and 49 U.S.C. § 40103(e) respectively.

A federally obligated airport sponsor has received federal aid in support of the national air transportation system. All users of the national airport system pay taxes to support and maintain the system and all its component airports, including the airport in question. The fact that certain users at a particular airport pay district or other local taxes, while others do not, does not justify preferential treatment, differential rates, or other unjustly discriminatory practices having the effect of unreasonably restricting or excluding users who do not pay those local taxes.

Nonresident aeronautical users have the same rights as resident aeronautical users regarding reasonable access to, and services provided at, a federally obligated airport. Accordingly, the airport must be available on reasonable terms to all public aeronautical users, and a local tax obligation does not establish a reasonable basis upon which to discriminate between resident and nonresident airport users.

The national air transportation system is dependent on each airport properly functioning as part of the whole system. Allowing airport sponsors to invoke local preferences, such as granting preferential treatment in the assignment of aircraft storage hangars to resident aeronautical users, could result in a patchwork of local preferences that would be inconsistent with a national air transportation system.

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Chapter 13. Airport Noise and Access Restrictions

13.1. Introduction and Responsibilities. This chapter contains guidance on the sponsor's responsibility with regard to restrictions on airport noise and access. Access restrictions have the potential to violate the federal obligation to make the airport available for public use on reasonable terms and without unjust discrimination as required by Grant Assurance 22, *Economic Nondiscrimination*.

It is the responsibility of the airports district offices (ADOs) and regional airports divisions to advise sponsors on the laws and policies that apply to access restrictions and to ensure that the sponsor extends equitable treatment to all of the airport's aeronautical users.



Airport Noise and Capacity Act of 1990 (ANCA) requires airport sponsors proposing restrictions on operations by Stage 2 or Stage 3 aircraft to conform to 14 CFR Part 161 Notice and Approval of Airport Noise and Access Restrictions. (Photo: FAA).

13.2. Background.

a. The legal framework with respect to abatement of aviation noise may be summarized as follows:

(1). The federal government has preempted the areas of airspace use and management, air traffic control, safety, and the regulation of aircraft noise at its source. The federal government also has substantial power to influence airport development through its administration of the Airport Improvement Program (AIP).

(2). Other powers and authorities to control aircraft noise rest with the airport proprietor – including the power to select an airport site, acquire land, assure compatible land use, and control airport design, scheduling and operations – subject to constitutional prohibitions against creation of an undue burden on interstate and foreign commerce, and unreasonable, arbitrary, and unjust discriminatory rules that advance the local interest, other statutory requirements, and interference with exclusive federal regulatory responsibilities over safety and airspace management.

(3). State and local governments may protect their citizens through land use controls and other police power measures not affecting airspace management or aircraft operations. In addition, to the extent they are airport proprietors, they have the powers described in paragraph (b)(2) below:

b. The authorities and responsibilities of the parties may be summarized as follows:

(1). The federal government has the authority and responsibility to control aircraft noise by the regulation of source emissions, by flight operational procedures, and by management of the air traffic control system and navigable airspace in ways that minimize noise impact on residential areas, consistent with the highest standards of safety and efficiency. The federal government also provides financial and technical assistance to airport proprietors for noise reduction planning and abatement activities and, working with the private sector, conducts continuing research into noise abatement technology.

(2). Airport sponsors are primarily responsible for planning and implementing action designed to reduce the effect of noise on residents of the surrounding area. Such actions include optimal site location, improvements in airport design, noise abatement ground procedures, land acquisition, and restrictions on airport use that do not unjustly discriminate against any user, impede the federal interest in safety and management of the air navigation system, or unreasonably interfere with interstate or foreign commerce.

(3). State and local governments and planning agencies should provide for land use planning and development, zoning, and housing regulations that are compatible with airport operations.

(4). Air carriers are responsible for retirement, replacement or retrofit for older jets that do not meet federal noise level standards, and for scheduling and flying airplanes in a way that minimizes the impact of noise on people.

(5). Air travelers and shippers generally should bear the cost of noise reduction, consistent with established federal economic and environmental policy that the costs of complying with laws and public policies should be reflected in the price of goods and services.

(6). Residents and prospective residents in areas surrounding airports should seek to understand the noise problem and what steps can be taken to minimize its effect on people. Individual and community responses to aircraft noise differ substantially and, for some individuals, a reduced level of noise may not eliminate the annoyance or irritation. Prospective residents of areas impacted by aircraft noise, thus, should be aware of the potential effect of noise on their quality of life and act accordingly.

Airport sponsors have limited proprietary authority to restrict access as a means of reducing aircraft noise impacts in order to improve compatibility with the local community. To accomplish this, airport sponsors must comply with the national program for review of airport noise and access restrictions under the Airport Noise and Capacity Act of 1990 (ANCA). ANCA requires that certain review and approval procedures be completed before a proposed restriction that impacts Stage 2 or Stage 3 aircraft is implemented. The FAA regulation that implements ANCA is 14 Code of Federal Regulations (CFR) Part 161, *Notice and Approval of Airport Noise and Access Restrictions*. An airport sponsor may use an airport noise compatibility study pursuant to 14 CFR Part 150 to fulfill certain notice and comment requirements under ANCA.

13.3. Overview of the Noise-Related Responsibilities of the Federal Government.

Responsibility for the oversight and implementation of aviation laws and programs is delegated to the FAA under the Federal Aviation Act of 1958 (FAA Act), as amended, 49 United States Code (U.S.C.) § 40101 et seq. The basic national policies intended to guide FAA actions under the FAA Act are set forth in 49 U.S.C. § 40101(d), which declares that certain matters are in the public interest. To achieve these statutory purposes, 49 U.S.C. §§ 40103(b), 44502, and 44721 provide extensive and plenary authority to the FAA concerning use and management of the navigable airspace, air traffic control, and air navigation facilities.

The FAA has exercised this authority by promulgating wide-ranging and comprehensive federal regulations on the use of navigable airspace and air traffic control. Similarly, the FAA has exercised its aviation safety authority, including the certification of airmen, aircraft, air carriers, air agencies, and airports under 49 U.S.C. § 44701 et seq. by extensive federal regulatory action.

The federal government, through this exercise of its constitutional and statutory powers, has preempted the areas of airspace use and management, air traffic control and aviation safety. Under the legal doctrine of federal preemption, which flows from the Supremacy Clause of the Constitution, state and local authorities do not generally have legal power to act in an area that already is subject to comprehensive federal regulation.

Because of the increasing public concern about aircraft noise that accompanied the introduction of turbojet powered aircraft in the 1960s and the constraints such concern posed for the continuing development of civil aeronautics and the air transportation system of the United States, the federal government in 1968 sought, and Congress granted, broad authority to regulate aircraft for the purpose of noise abatement.

This authority, codified at 49 U.S.C. § 44715, constitutes the basic authority for federal regulation of aircraft noise.

13.4. Code of Federal Regulations (CFR) Part 36, Noise Standards for Aircraft Type and Airworthiness Certification. Under 49 U.S.C. § 44715, the FAA may propose rules considered necessary to abate aircraft noise and sonic boom. Aircraft noise rules must be consistent with the highest degree of safety in air commerce and air transportation, economically reasonable, technologically practicable, and appropriate for the particular type of aircraft. On November 18, 1969, the FAA promulgated the first aircraft noise regulations, which were codified in 14 CFR Part 36. The new Part 36 became effective on December 1, 1969. It prescribed noise standards for the type certification of subsonic transport category airplanes and for subsonic turbojet powered airplanes regardless of category. Part 36 initially applied only to new types of aircraft. As soon as the technology had been demonstrated, the standard was to be extended to all newly manufactured aircraft of already certificated types.

In 1973, the FAA amended Part 36 to extend the applicability of the noise standards to newly produced airplanes irrespective of type certification date. In 1977, the FAA amended Part 36 to provide for three stages of aircraft noise levels (Stage 1, Stage 2, and Stage 3), each with specified limits. This regulation required applicants for new type certificates applied for on or after November 5, 1975, to comply with Stage 3 noise limits, which were stricter than the noise limits then being applied. Airplanes in operation at the time that did not meet the Stage 3 noise limits were designated either as Stage 2 or Stage 1 airplanes.

In 1976, the FAA amended the aircraft operating rules in 14 CFR Part 91 to phase out operations in the United States, by January 1, 1985, of Stage 1 aircraft weighing more than 75,000 pounds. These aircraft were defined as civil subsonic aircraft that did not meet Stage 2 or Stage 3 Part 36 noise standards. Effectively, the Stage 1 category is composed of transport category and jet airplanes that cannot meet the noise levels required for Stage 2



The Aviation Safety and Noise Abatement Act (ASNA) provided for federal funding and other incentives for airport operators to prepare noise exposure maps and noise compatibility programs voluntarily. Under ASNA, noise compatibility programs “shall state the measures the [airport] operator has taken or proposes to take to reduce existing noncompatible uses and prevent introducing additional noncompatible uses in the area covered by the [noise exposure] map” submitted by the airport operator. Aircraft noise compatibility planning is critical to prevent residential development too close to the airport, as shown above. (Photo: FAA)



In 1973, the FAA amended Part 36 to extend the applicability of the noise standards to newly produced airplanes irrespective of type certification date. In 1977, the FAA amended Part 36 again to provide for three stages of aircraft noise levels, each with specified limits. Those are referred as Stage 1, Stage 2, and Stage 3 aircraft; Stage 3 being the more recent and, generally, the quieter for a certain aircraft weight. The aircraft shown here – the Boeing 727 – is classified as a Stage 3 aircraft and is commonly seen at airports throughout the U.S. (Photo: FAA)

or Stage 3 under Part 36, Appendix B. It also includes aircraft that were never required to demonstrate compliance with Part 36 because they were certificated prior to the requirement for Part 36 noise certification. Stage 1 aircraft include some corporate jets, some transport category turbo-prop, and some transport category piston airplanes. Aircraft certificated under Part 36 Subpart F, *Propeller Driven Small Airplanes and Propeller-Driven, Commuter Category Airplanes*, do not have a stage classification, and as such are referred to as nonstage. The vast majority of small general aviation (GA) aircraft and many propeller-driven commuter aircraft flying in the United States are nonstage aircraft. In addition, some aircraft to which Part 36 does not apply, regardless of method of propulsion, can be aircraft certificated in the experimental category. For example, most jet war birds, military aircraft types and World War II aircraft are also classified as nonstage aircraft.

As a result of congressional findings, ANCA revised CFR Part 91 to include the provision that no civil subsonic turbo aircraft weighing more than 75,000 pounds may be operated within the 48 contiguous states after January 1, 2000, unless it was shown to comply with the Stage 3 noise standards of CFR Part 36.

In July 2005, the FAA adopted more stringent Stage 4 standards for certification of aircraft, effective January 1, 2006. Any aircraft that meets Stage 4 standards will meet Stage 3 standards. Accordingly, policies for review of noise restrictions affecting Stage 3 aircraft may be applied to Stage 4 aircraft as well.

13.5. The Aircraft Noise Compatibility Planning Program. In 1979, Congress enacted the Aviation Safety and Noise Abatement Act (ASNA). In ASNA, Congress directed the FAA to: (1) establish a single system of noise measurement to be uniformly applied in measuring noise at airports and in surrounding areas for which there is a highly reliable relationship between projected noise and surveyed reactions of people to noise; (2) establish a single system for determining the exposure of individuals to noise from airport operations; and (3) identify land uses that are normally compatible with various exposures of individuals to noise. (See Table 1 of Part 150 at the end of this chapter.). FAA promulgated 14 CFR Part 150 to implement ASNA. Part 150 established the “day-night average sound level” (DNL) as the noise metric for determining the exposure of individuals to aircraft noise. It identifies residential land uses as being normally compatible with noise levels below DNL 65 decibels (dB). ASNA also provided for federal funding and other incentives for airport operators to prepare noise exposure maps voluntarily and institute noise compatibility programs. Under ASNA, noise compatibility programs “shall state the measures the [airport] operator has taken or proposes to take to reduce existing noncompatible uses and prevent introducing additional noncompatible uses in the area covered by the [noise exposure] map.”

a. Consistent with ASNA, Part 150 requires airport operators preparing noise compatibility programs to analyze the following alternative measures:

(1). Acquisition of land in fee, and interests therein, including but not limited to air rights, easements, and development rights;

(2). Construction of barriers and acoustical shielding, including the soundproofing of public buildings;

(3). Implementation of restrictions on the use of the airport by type or class of aircraft based on the noise characteristics of the aircraft;

(4). Implementation of a preferential runway system; use of flight procedures to control the operation of aircraft to reduce exposure of individuals or specific noise sensitive areas³⁴ to noise in the area around the airport;

(5). Other actions or combinations of actions that would have a beneficial noise control or abatement impact on the public; and

(6). Other actions recommended for analysis by the FAA for the specific airport.

b. Under Part 150, an airport operator “shall evaluate the several alternative noise control actions” and develop a noise compatibility program that:



The FAA has continuously, consistently, and actively encouraged a balanced approach to address noise problems and to discourage unreasonable and unwarranted airport use restrictions. It is a long-standing FAA policy that airport use restrictions should be considered only as a last resort when other mitigation measures are inadequate to address the noise problem satisfactorily and a restriction is the only remaining option that could provide noise relief. A balanced approach in noise mitigation is important in part because new technology in aircraft and engine design, along with new noise certification and noise abatement procedures, have in many instances been extremely successful in reducing noise impacts at airports across the country. Voluntary measures, such as asking flight crews to expedite climbs (safely) or apply airport specific noise procedures are inherently reasonable elements of a balanced approach. (Photos: FAA)



³⁴ These are land uses that may be adversely affected by cumulative noise levels at or above 65 DNL such as residential neighborhoods, educational, health, or religious structures or sites, and outdoor recreational, cultural and historic sites.

- (1). Reduces existing noncompatible uses and prevents or reduces the probability of the establishment of additional noncompatible uses;
- (2). Does not impose an undue burden on interstate and foreign commerce;
- (3). Does not derogate safety or adversely affect the safe and efficient use of airspace;
- (4). To the extent practicable, meets both local interests and federal interests of the national air transportation system; and
- (5). Can be implemented in a manner consistent with all of the powers and duties of the FAA Administrator.

As a matter of policy, FAA encourages airport proprietors to develop and implement aircraft noise compatibility programs under Part 150. Where an airport proprietor is considering an airport use restriction, Part 150 provides an effective process for determining whether the proposed restriction is consistent with applicable legal requirements, including the grant assurances in airport development grants. However, while a restriction might meet the Part 150 criteria, that does not necessarily mean it will meet the Part 161 criteria. ASNA and Part 150 set forth an appropriate means of defining the noise problem, recognizing the range of local and federal interests, ensuring broad public and aeronautical participation, and balancing all of these interests in a manner to ensure a reasonable, nonarbitrary, and nondiscriminatory result that is consistent with the airport proprietor's federal obligations. Accordingly, the FAA included in 14 CFR Part 161, the regulations that implement ANCA, an option to use the Part 150 process to provide public notice and opportunity to comment on a proposed Stage 2 or Stage 3 restriction. The FAA encouraged the use of Part 150 for meeting the notice and comment requirements of Part 161, noting that the Part 150 process "is more comprehensive in scope in that it includes compatible land use planning, as well as restrictions on aircraft operation." The FAA further noted, in the preamble to the Part 161 final rule, that a Part 150 determination "may provide valuable insight to the airport operator regarding the proposed restriction's consistency with existing laws, and the position of the FAA with respect to the restriction."

13.6. Compliance Review. As part of a Part 150 study, the FAA requires the sponsor to analyze fully the anticipated impact of any proposed restriction. The FAA must evaluate whether the restriction places an undue burden on interstate or foreign commerce or the national aviation system, and whether the restriction affects the sponsor's ability to meet its federal obligations. Certain restrictions may have little impact at one airport and a great deal of impact at others. Accordingly, the sponsor must clearly present the impact of the restriction at the affected airport. A sponsor with a multiple airport system may designate different roles for the airports within its system. That designation in itself does not authorize restrictions on classes of operations, and the sponsor should first present its plan to FAA to ensure compliance with grant assurances and other federal obligations.

13.7. Mandatory Headquarters Review. The FAA headquarters staff shall review proposed noise restrictions, especially those that are proposed without using the Part 150 process. Accordingly, if the ADOs or regional airports divisions identify a restriction that potentially

impacts the sponsor's federal obligations, it must coordinate its actions with the Airport Planning and Environmental Division (APP-400) through the FAA headquarters Airport Compliance Division (ACO-100).

13.8. Balanced Approach to Noise Mitigation. Proposed noise-based airport use restrictions must consider federal interests in the national air transportation system as well as the local interests they are intended to address.

a. FAA Policy. The FAA has encouraged a balanced approach to address noise problems and has discouraged unreasonable airport use restrictions. It is FAA policy that airport use restrictions should be considered only as a measure of last resort when other mitigation measures are inadequate to satisfactorily address a noise problem and a restriction is the only remaining option that could provide noise relief. This policy furthers the federal interest in maintaining the efficiency and capacity of the national air transportation system and, in particular, the FAA's responsibility to ensure that federally funded airports maintain reasonable public access in compliance with applicable law.

b. Federal Methodology. Failure to consider a combination of measures, such as land acquisitions, easements, noise abatement procedures, and sound insulation could result in a finding that a balanced approach was not used in addressing a noise problem. A sponsor's acceptance of federal funds places upon it certain federal obligations, which require it first to consider a wide variety of options to alleviate a local noise problem. Consistent with these federal requirements and policies, the FAA interprets the requirement in 49 U.S.C. § 47107(a)(1) that a federally funded airport will be "available for public use



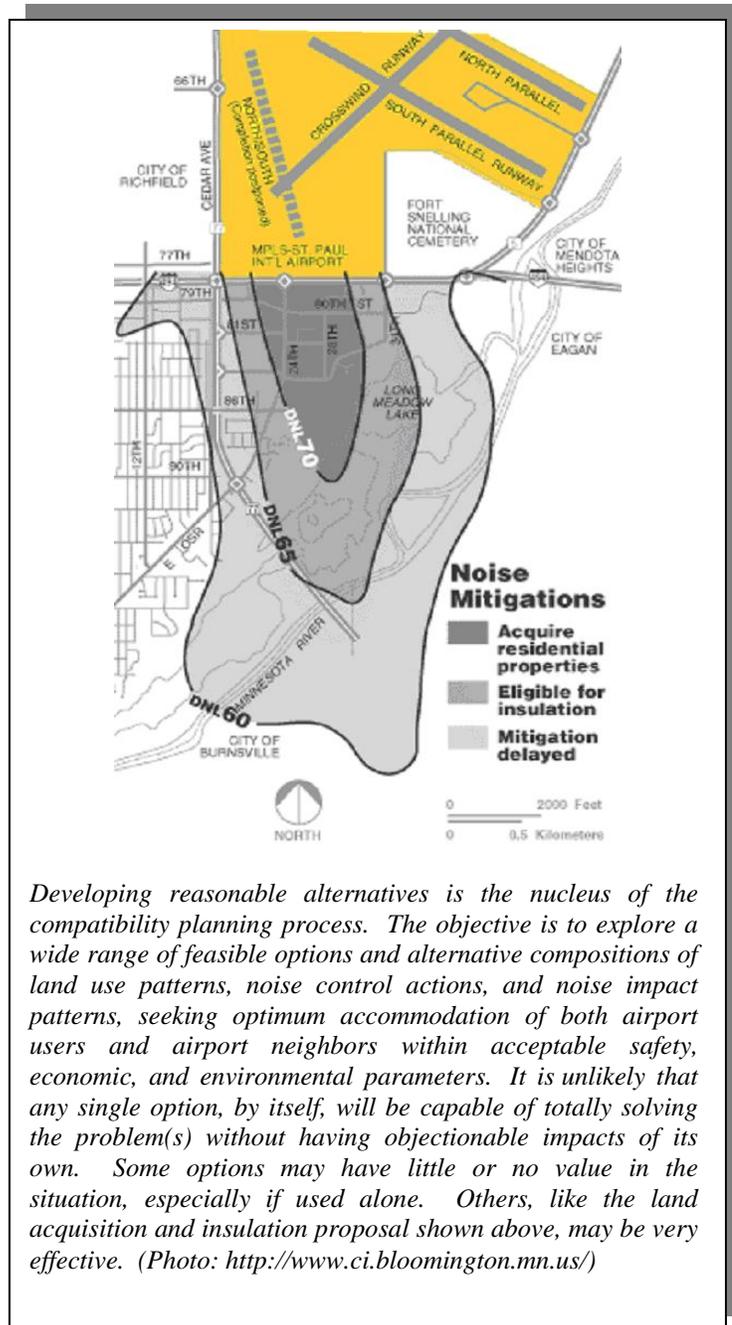
Aircraft noise and access restrictions must comply with Grant Assurance 22, Economic Nondiscrimination, and similar requirements under 49 U.S.C. § 47152 (2), (3), Surplus Property Conveyances Covenants and section 516 of the Airport and Airway Improvement Act of 1982 (AIAA), section 23 of the Airport and Airway Development Act of 1970 (1970 Airport Act), and section 16 of the Federal Airport Act of 1946, Nonsurplus Conveyances Covenants. Under the prohibition on unjust discrimination in Grant Assurance 22 and similar requirements, a sponsor may not unjustly discriminate between aircraft because of propulsion system, weight, type, operating regulations, or any other characteristic that does not relate to actual noise emissions. For example, some first generation turboprop aircraft – such as the Fokker F-27 seen here below – and the DC-3/C-47 shown above are noisier than many jets. (Photo: Above, USAF; Below, Bob Garrard).



on reasonable conditions” as requiring that a regulation restricting airport use for noise purposes: (1) be justified by an existing noncompatible land use problem; (2) be effective in addressing the identified problem without restricting operations more than necessary; and (3) reflect a balanced approach to addressing the identified problem that fairly considers both local and federal interests.

c. The Role of ASNA and Part 150. Aircraft under ASNA involves consideration of a range of alternative mitigation measures, including aircraft noise and other restrictions. For example, under Part 150, the airport operator could, among other things, recommend constructing noise barriers, installing acoustical shielding, and acquiring land, easements, air rights, and development rights to mitigate the effects of noise consistent with 49 U.S.C. § 47504. The FAA does not need to examine nonrestrictive measures to see if they are consistent with ANCA and Grant Assurance 22, *Economic Nondiscrimination*, or related federal obligations.

d. Reasonable Alternatives. Developing reasonable alternatives is the nucleus of the compatibility planning process. The objective is to explore a wide range of feasible options and alternative compositions of land use patterns, noise control actions, and noise impact patterns, seeking optimum accommodation of both airport users and airport neighbors within acceptable safety, economic, and environmental parameters. It is unlikely that any single option, by itself, will be capable of totally solving the problem(s) without having objectionable impacts of its own. Some options may have little or no value in the situation, especially if used alone. Realistic alternatives, then, will normally consist of combinations of the



various options in ways that offer more complete solutions with more acceptable impacts or costs.

A balanced approach – using a combination of nonrestrictive measures and considering use restrictions only as a last resort – is inherently reasonable and is used nationally and internationally. On the other hand, bypassing nonrestrictive measures and only relying on restrictive alternatives can be an inherently unreasonable approach to addressing a noise problem.

13.9. Cumulative Noise Metric. In ASNA, Congress directed the Secretary of Transportation to “establish a single system for determining the exposure of individuals to noise resulting from airport operations” and “identify land uses normally compatible with various exposures of individuals to noise.”

As directed by Congress in ASNA, the FAA has established DNL as the metric for “determining the exposure of individuals to noise resulting from airport operations.” Also in compliance with ASNA, the FAA has established the land uses normally compatible with exposures of individuals to various levels of aircraft noise. The FAA determined that residential land use is “normally compatible” with noise levels of less than DNL 65 dB. In other words, a sponsor should demonstrate that a proposed restriction will address a noise problem within the 65 dB DNL contour.

Realistic alternatives will normally consist of combinations of the various options in ways that offer more complete solutions with more acceptable impacts or costs.

A restriction designed to address a noise problem must be based on significant cumulative noise impacts, generally represented by an exposure level of DNL 65 dB or higher in an area not compatible with that level of noise exposure. A community is not precluded from adopting a cumulative noise exposure limit different than DNL 65 dB, but cannot apply a different standard to aircraft noise than it does to all other noise sources in the community. This is not common, and most noise mitigation measures can be expected to address cumulative noise exposure of DNL 65 dB and higher.

13.10. General Noise Assessment. In assessing the reasonableness and unjustly discriminatory aspect of a proposed noise restriction, FAA may need to answer the following:

- a. Is Part 150 documentation available for review and consideration? Has the sponsor completed the required analysis, public notice, and approval process under 14 CFR Part 161? Has the sponsor implemented the measures?
- b. Is the proposed restriction a rational response to a substantiated noise problem?
- c. Were nonrestrictive land use measures considered first?

- d. Is proper methodology being used in comparing alternatives?
- e. Is there consistency between guidelines governing the establishment of compatible land use and those governing an access restriction? Do they work together to solve the noise problem?
- f. Are existing local land use standards designed to achieve the same level of compatibility sought by the restriction (i.e., does the community tolerate a higher level of noise for nonaviation uses and place a higher burden of noise mitigation on the airport and its users than it does on other noise sources)?
- g. Are the restrictions intended to achieve noise reductions above 65 dB or below? Is guidance from the federal Interagency Committee on Aviation Noise (FICAN) being used?³⁵
- h. Has the sponsor demonstrated any exposure to financial liability for noise impact as a result of a noise problem?
- i. Is the restriction based on a qualifier other than noise? For example, noise-based restrictions have to be justified on the grounds of aircraft noise. A restriction based on aircraft weight or any other qualifier other than noise emission might be unjustly discriminatory if the purpose is to address a noise problem.



13.11. Residential Development. In reviewing the reasonableness of airport access restrictions, the

In reviewing the reasonableness of airport access restrictions, the FAA must consider whether the airport sponsor has taken appropriate action to the extent reasonable to restrict the use of land near the airport to uses that are compatible with airport operations. The airport sponsor is obligated under its federal grant assurances to address incompatible land use in the vicinity of the airport. These homes in the vicinity of an airport are a clear indication of the failure of local zoning to protect the airport. (Photos: FAA)

³⁵ The Federal Interagency Committee on Aviation Noise (FICAN) was formed in 1993 to provide forums for debate over future research needs to better understand, predict, and control the effects of aviation noise, and to encourage new technical development efforts in these areas. Additional information may be available online.

FAA must consider whether the sponsor has fulfilled its responsibilities regarding compatible land use under Grant Assurance 21, *Compatible Land Use*. Airport sponsors are obligated to take appropriate action, including the adoption of zoning laws, to the extent reasonable to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations. Local land use planning, as a method of determining appropriate (and inappropriate) use of properties around airports, should be an integral part of the land use policy and regulatory tools used by state and local land use planning agencies. Very often, such land use planning coordination is hampered by the fact that an airport can be surrounded by multiple individual local governmental jurisdictions, each with its own planning process. Some airport authorities have the authority to control land use, but many do not. If the airport sponsor does not have authority to control local land use, FAA will not hold the actions of independent land use authorities against the airport sponsor. However, FAA expects the airport sponsor to take reasonable actions to encourage independent land use authorities to make land use decisions that are compatible with aircraft operations. The airport sponsor should be proactive in opposing planning and proposals by independent authorities to permit development of new noncompatible land uses around the airport.

13.12. Impact on Other Airports and Communities. In evaluating the significance of a restriction, the FAA will consider the degree to which the restriction may affect other airports in two general ways: (1) whether it establishes a precedent for restrictions at more airports, possibly resulting in significant effects on the national air transportation system, and (2) whether other airports in the region will be impacted by traffic diverted from the restricted airport, either by shifting noise impact from one community to another or by burdening a hub airport with general aviation traffic that should be able to use a reliever airport.

13.13. The Concept of Unjust Discrimination. Grant Assurance 22, *Economic Nondiscrimination*, of the prescribed grant assurances implements the provisions of 49 U.S.C. § 47107(a)(1) through (6), and requires, in pertinent part, that the sponsor of a federally obligated airport will make its 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.

Consistent with Grant Assurance 22, *Economic Nondiscrimination*, airport sponsors are prohibited from unjustly discriminating among airport users when implementing a noise-based restriction. The FAA has determined – and the federal courts have held – that the use of noise control regulations to ban aircraft on a basis unrelated to noise is unjustly discriminatory and a violation of the federal grant assurances and federal surplus property obligations.

For example, in *City and County of San Francisco v. FAA*, the airport adopted an aircraft noise regulation that resulted in the exclusion from the airport of a retrofitted Boeing 707 that met Stage 2 standards while permitting use of the airport by 15 other models of aircraft emitting as much or more noise than the 707. The Ninth Circuit Court of Appeals affirmed the FAA's determination that the airport regulation was unjustly discriminatory because it allowed aircraft that were equally noisy or noisier than the aircraft being restricted to operate at the airport and to increase in number without limit while excluding the 707 based on a characteristic that had no bearing on noise (date of type-certification as meeting Stage 2 requirements).

In *Santa Monica Airport Association v. City of Santa Monica*, the Court struck down the airport's ban on the operation of jet aircraft on the basis of noise under the Commerce and Equal Protection clauses of the U.S. Constitution. The Court found that, "... in terms of the quality of the noise produced by modern type fan-jets and its alleged tendency to irritate and annoy, there is absolutely no difference between the noise of such jets and the noise emitted by the louder fixed-wing propeller aircraft which are allowed to use the airport."

13.14. Part 161 Restrictions Impacting Stage 2 or Stage 3 Aircraft.

a. Stage 2 or 3 Aircraft. Airport noise/access restrictions on operations by Stage 2 or Stage 3 aircraft must comply with ANCA, as implemented by 14 CFR Part 161.

ANCA does not require FAA approval of restrictions on Stage 2 aircraft operations; however, FAA determines whether applicable notice, comment, and analysis requirements have been met. The FAA also separately reviews proposed Stage 2 restrictions for compliance with grant assurance and surplus property obligations. For this purpose, the FAA relies upon the standards under ASNA, as implemented by 14 CFR 150.

ANCA prescribes a more stringent process for national review of proposed restrictions on Stage 3 aircraft operations, including either FAA approval or, alternatively, agreement by all operators at the airport. If FAA approval is required, then the process for review of restrictions on Stage 3 aircraft operations includes consideration of environmental impacts. The statutory criteria for FAA approval of Stage 3 restrictions includes the criteria used under 14 CFR Part 150 to determine compliance with the grant assurance and Surplus Property Act obligations. For Stage 3 restrictions, the ANCA review considers compliance with grant assurance and surplus property obligations.

Proposals to restrict operations by Stage 3 aircraft must (1) be agreed upon by the airport and all users at the airport or (2) satisfy procedural requirements similar to proposals to restrict Stage 2 operations and be



Aircraft certificated under Part 36 Subpart F "Propeller Driven Small Airplanes and Propeller-Driven, Commuter Category Airplanes" do not have a stage classification, and as such are referred to as nonstage. Most small general aviation aircraft and many commuter aircraft are nonstage aircraft. An example is the Beechcraft 58 Baron. (Photo: FAA)

approved by FAA. To be approved, restrictions must meet the following six statutory criteria:

- The proposed restriction is reasonable, nonarbitrary, and nondiscriminatory.
- The proposed restriction does not create an undue burden on interstate or foreign commerce.
- The proposed restriction maintains safe and efficient use of the navigable airspace.
- The proposed restriction does not conflict with any existing federal statute or regulation.
- The applicant has provided adequate opportunity for public comment on the proposed restriction.
- The proposed restriction does not create an undue burden on the national aviation system.

b. ANCA Grandfathering.

ANCA contains special provisions that “grandfather” restrictions on Stage 2 aircraft operations that were proposed before October 1, 1990. ANCA also grandfathers restrictions on Stage 3 aircraft that were in effect on October 1, 1990. Airport



The variability in the way individuals react to noise makes it essentially impossible to predict with any accuracy how any one individual will respond to a given noise. For example, some people object to noise emitted by jets, regardless of the actual noise energy level, while others will only complain about helicopter noise. (Photos: FAA).

sponsors who adopted restrictions before ANCA was enacted on November 5, 1990, may amend these restrictions without complying with ANCA provided the amendment does not reduce or limit aircraft operations or affect aircraft safety. However, amendments to existing restrictions and new restrictions are subject to review for compliance with the federal grant assurances and federal surplus property obligations.

c. Consistency of Part 161 and Grant Assurance Determinations on Proposed Restrictions of Operations by Stage 2 Aircraft. It is possible for a proposed Stage 2 restriction to meet the requirements of Part 161, which are essentially procedural, but fail to comply with the grant assurance requirements to provide access on reasonable terms without unjust discrimination. Accordingly, in reviewing a restriction on operations by Stage 2 aircraft, it is important that FAA regional airports divisions coordinate with the FAA headquarters Airport Compliance Division (ACO-100), the FAA Airport Planning and Environmental Division (APP-400), and to assure consistency between agency Part 161 and grant assurance determinations.

13.15. Undue Burden on Interstate Commerce.

The FAA is responsible for reviewing and evaluating an airport sponsor's noise restrictions to determine whether there is an undue burden on interstate or foreign commerce contrary to the airport's federal requirements under the grant assurances, the Surplus Property Act, and ANCA.

a. General. An airport restriction must not create an undue burden on interstate commerce. The FAA will make the determination on whether it is an undue burden. While airport restrictions may have little impact at one airport, they may have a great deal of impact at others by adversely affecting airport capacity or excluding certain users from the airport. The magnitude of both impacts must be clearly presented. Any regulatory action that causes an unreasonable interference with interstate or foreign commerce could be an undue burden.

b. Analysis and Process. In all cases, it is essential to determine whether there are interstate operations into and out of the airport in question, as well as the level of air carrier service. For example, the airport may have Part 121 operations or others engaged in Part 135 commercial operations of an interstate commerce nature. While some kinds of operations may be entirely local, e.g., air tours or crop dusting, most commercial aviation will involve interstate commerce to some degree.

In determining whether a particular restriction would cause an undue burden on interstate commerce, it may be necessary to consider the total number of based aircraft and aircraft operations, the role of the airport, and the capabilities of other airports within the system (i.e., reliever airport, general aviation (GA), or commercial service airport), and the number of operators engaged in interstate commerce. The analysis of a proposed restriction should also quantify the economic costs and benefits and the regional impact in terms of employment, earnings, and commerce.

13.16. Use of Complaint Data. Complaint data (i.e., from homeowner complaints filed with the airport) are generally not statistically valid indicators or measurements of a noise problem. Therefore, complaint data is usually not an acceptable justification for a restriction. Congress, in

ASNA, directed the FAA to establish a single system of noise measurement to be uniformly applied in measuring noise at airports and in surrounding areas for which there is a highly reliable relationship between projected noise and surveyed reactions of people to noise.

In 14 CFR Part 150, the FAA adopted DNL to fulfill this statutory federal obligation. While complaints may be a valid indication of *individual* annoyance, they do not accurately measure *community* annoyance. Reactions of individuals to a particular level of noise vary widely, while community annoyance correlates well with particular noise exposure levels. As the FAA stated in a 1994 report to Congress on aircraft noise:

The attitudes of people are actually more important in determining their reactions to noise than the noise exposure level. Attitudes that affect an individual's reactions include:

- a. Apprehension regarding their safety because of the noise emitter,
- b. The belief that the noise is preventable,
- c. Awareness of non-noise environmental problems, and
- d. A general sensitivity to noise, and the perceived economic importance of the noise emitter.

The resultant variability in the way individuals react to noise makes it essentially impossible to predict with any accuracy how any one *individual* will respond to a given noise. For example, some people object to noise emitted by jets, regardless of the actual noise energy level, while others complain about helicopter noise only. When *communities* are considered as a whole, however, reliable relationships are found between reported annoyance and noise exposure. This relationship between community annoyance and noise exposure levels "...remains the best available source of predicting the social impact of noise on communities around airports ...". As the Federal Interagency Committee on Noise (FICON) noted in its 1992 report, "the best available measure of [community annoyance] is the percentage of the area population characterized as 'highly annoyed' (%HA) by long-term exposure to noise of a specified level (expressed in terms of DNL)."

13.17. Use of Advisory Circular (AC) 36-3H. Advisory Circular (AC) 36-3H provides listings of estimated airplane noise levels in units of A-weighted sound level in decibels (dBA), ranked in descending order under listed conditions and assumptions. A-weighted noise levels refer to the level of noise energy in the frequency range of human hearing, rather than total noise energy. The advisory circular provides data and information both for aircraft that have been noise type certificated under 14 CFR Part 36 and for aircraft for which FAA has not established noise standards.

While 14 CFR Part 36 requires turbojet and large transport category aircraft noise levels to be reported in units of Effective Perceived Noise Level in decibels (EPNdB) and the reporting of propeller-driven small airplanes and commuter category airplanes to be reported using a different method [A-weighted noise levels], many airports and communities use a noise rating scale that is stated in A-weighted decibels. For this reason, FAA has provided a reference source for aircraft noise levels expressed in A-weighted noise levels.

The noise levels in AC 36-3H expressed in A-weighted noise levels are estimated as they would be expected to occur during type certification. Aircraft noise levels that occur under uniform certification conditions provide the best information currently available to compare the relative noisiness of airplanes of different types and models. AC 36-3H should be used as the basis for comparing the noise levels of aircraft that are not subject to noise certification rules to aircraft that are certificated as Stage 1, Stage 2, or Stage 3 under 14 CFR Part 36.

Advisory Circular (AC) 36-3H allows an “apple-to-apple” comparison among aircraft certificated under a variety of standards. It can easily be incorporated into an airport operator’s plan, and it is widely used and understood by the layman.

Table 13.1 in AC 36-3H provides an example of comparisons of aircraft. AC 36-3H provides the data in dBA, which is the base metric for DNL. It tabulates noise levels for a broad variety of aircraft in A-weighted sound level, retaining the advantage of the Part 36 testing methodology

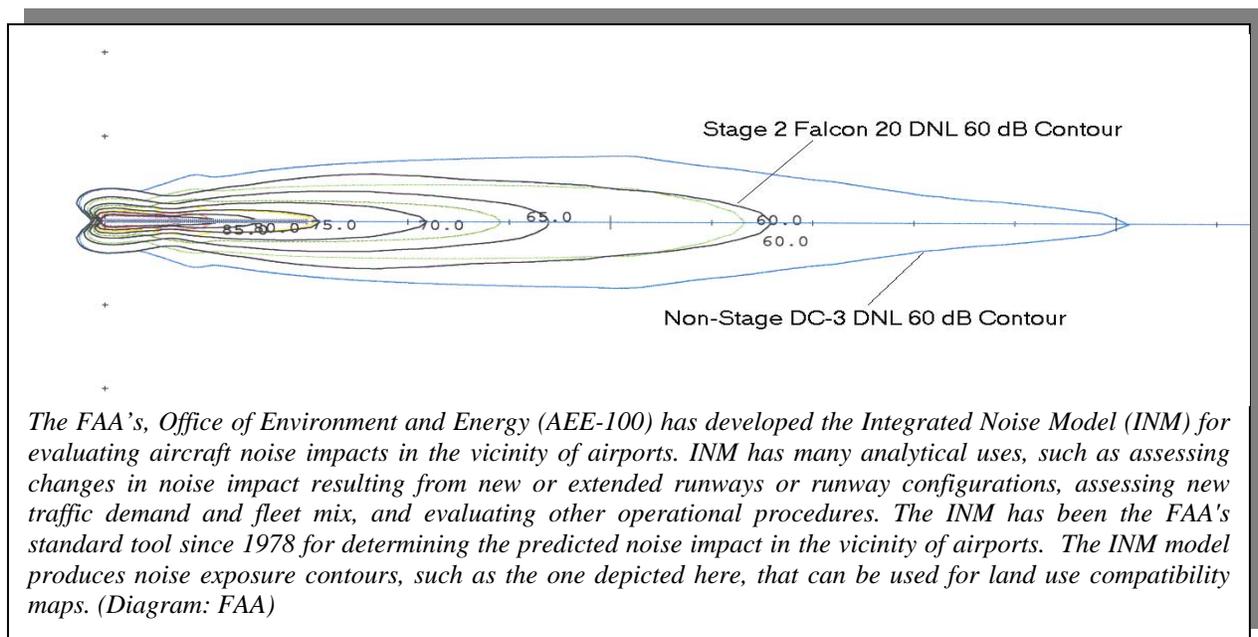
ESTIMATED MAXIMUM A-WEIGHTED SOUND LEVELS MEASURED IN ACCORDANCE WITH PART-36 APPENDIX -C- PROCEDURES						
MANUFACTURER	AIRPLANE	***TAKEOFF***			FLAPS	NOT
		ENGINE	TOGW 1000 LBS	EST DBA		
BEECH	35-C33A	IO-520-B	3.30	70.0	-	
BEECH	F33A	IO-520-B	3.40	70.0	-	
BEECH	K35,M35	IO-470-C	3.00	70.0	-	
CESSNA	182P	O-470-S	3.00	70.0	-	1
CESSNA	320C	TSIO-470-D	5.20	70.0	-	
CESSNA	337H	IO-360-G	4.60	70.0	-	
PIPER	601P	IO-540-S1A5	6.00	70.0	-	
PIPER	PA-31-325	TIO-540-F2BD	6.50	70.0	-	
PIPER	PA-32R-301	IO-540-K1G5D	3.60	70.0	-	
PIPER	PA-46-31P MALIBU	TSJO-520-BE	4.10	70.0	-	
BOEING	B-757-200	PW-2037(BG-3)	220.00	69.9	5	
DASSAULT	FALCON 900	TFE731-5BR-1C	46.50	69.9	20	
FOKKER	F100	RR TAY MK650-15	98.00	69.9	-	
FOKKER	F100	RR TAY MK650-15	98.00	69.9	-	
AVRO	146-RJ 70	LF507-1F	84.00	69.8	18	8,1
AVRO	146-RJ 70	LF507-1F	84.00	69.8	18	8,1

Table 13.1 Comparison of Aircraft Using Advisory Circular (AC) 36-3

and procedures (standardization, repeatability). AC 36-3H allows an “apple-to-apple” comparison among aircraft certificated under a variety of standards. It can easily be incorporated into an airport sponsor’s noise compatibility plan, and it is widely used and understood in both the aviation industry and community planning agencies. However, the noise levels in AC 36-3H are not intended to determine what noise levels are acceptable or unacceptable for an individual community.

13.18. Integrated Noise Modeling. The FAA’s Office of Environment and Energy (AEE-100) has developed the Integrated Noise Model (INM) for evaluating aircraft noise impacts in the vicinity of airports. INM has many analytical uses, such as (a) assessing changes in noise impact resulting from new or extended runways or runway configurations, (b) assessing changes in traffic demand and fleet mix, and (c) evaluating other operational procedures. The INM has been the FAA's standard tool since 1978 for determining the predicted noise impact in the vicinity of airports. Requirements for INM use are defined in FAA Order 1050.1E, *Policies and Procedures for Considering Environmental Impacts*; FAA Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Projects*; and 14 CFR Part 150, *Airport Noise Compatibility Planning*.

The INM produces noise exposure contours that are used for land use compatibility maps. The INM program includes built-in tools for comparing contours; it also has features that facilitate easy export to a commercial geographic information system (GIS). The INM can also calculate predicted noise levels at specific sites of interest, such as hospitals, schools, or other noise-sensitive locations. For these grid points, the INM reports detailed information for the analyst to determine which events contribute most significantly to the noise level at that location. The INM supports 16 predefined noise metrics that include cumulative sound exposure, maximum sound



level, and time above metrics from the A-Weighted, C-Weighted, and the Effective Perceived

Noise Level families. The user may also create the Australian version of the Noise Exposure Forecast (NEF).³⁶

13.19. Future Noise Policy. Federal policy on noise measurement methodology and noise mitigation is not static, but can change with new legislation or reconsideration of past agency policy. ACO-100 should be consulted when reviewing a proposed aircraft noise restriction to ensure that current policy is applied to the review.

13.20. through 13.25 reserved.

³⁶ Additional information on the Integrated Noise Model (INM) and its use is available from the FAA Office of Environment and Energy (AEE-100) or online on the FAA web site.

TABLE 1
LAND USE COMPATIBILITY* WITH YEARLY DAY-NIGHT AVERAGE SOUND LEVELS

<i>Land Use</i>	<i>Yearly Day-Night Average Sound Level (L_{dn}) in Decibels</i>					
	<i>Below 65</i>	<i>65-70</i>	<i>70-75</i>	<i>75-80</i>	<i>80-85</i>	<i>Over 85</i>
<i>Residential</i>						
Residential, other than mobile homes and transient lodgings	Y	N(1)	N(1)	N	N	N
Mobile home parks	Y	N	N	N	N	N
Transient lodgings	Y	N(1)	N(1)	N(1)	N	N
<i>Public Use</i>						
Schools	Y	N1)1	N(1)	N	N	N
Hospitals and nursing homes	Y	25	30	N	N	N
Churches, auditoriums, and concert halls	Y	25	30	N	N	N
Governmental services	Y	Y	25	30	N	N
Transportation	Y	Y	Y(2)	Y(3)	Y(4)	Y(4)
Parking	Y	Y	Y(2)	Y(3)	Y(4)	N
<i>Commercial Use</i>						
Offices, business and professional	Y	Y	25	30	N	N
Wholesale and retail—building materials, hardware and farm equipment	Y	Y	Y(2)	Y(3)	Y(4)	N
Retail trade—general	Y	Y	25	30	N	N
Utilities	Y	Y	Y(2)	Y(3)	Y(4)	N
Communication	Y	Y	25	30	N	N
<i>Manufacturing And Production</i>						
Manufacturing, general	Y	Y	Y(2)	Y(3)	Y(4)	N
Photographic and optical	Y	Y	25	30	N	N
Agriculture (except livestock) and forestry	Y	Y(6)	Y(7)	Y(8)	Y(8)	Y(8)
Livestock farming and breeding	Y	Y(6)	Y(7)	N	N	N
Mining and fishing, resource production and extraction	Y	Y	Y	Y	Y	Y
<i>Recreational</i>						
Outdoor sports arenas and spectator sports	Y	Y(5)	Y(5)	N	N	N
Outdoor music shells, amphitheaters	Y	N	N	N	N	N
Nature exhibits and zoos	Y	Y	N	N	N	N
Amusements, parks, resorts and camps	Y	Y	Y	N	N	N
Golf courses, riding stables and water recreation	Y	Y	25	30	N	N

Numbers in parentheses refer to notes.

* The designations contained in this table do not constitute a Federal determination that any use of land covered by the program is acceptable or unacceptable under Federal, State, or local law. The responsibility for determining the acceptable and permissible land uses and the relationship between specific properties and specific noise contours rests with the local authorities. FAA determinations under Part 150 are not intended to substitute federally determined land uses for those determined to be appropriate by local authorities in response to locally determined needs and values in achieving noise compatible land uses.

KEY TO TABLE 1

SLUCM	Standard Land Use Coding Manual.
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.
25, 30, or 35	Land used and related structures generally compatible; measures to achieve NLR or 25, 30, or 35 dB must be incorporated into design and construction of structure.

In the Aviation Safety and Noise Abatement Act (ASNA), Congress directed the FAA, among other things, to identify land uses that are normally compatible with various exposures of individuals to noise. The result was Table 1 in 14 CFR Part 150, as depicted above. (Graphic: FAA)

NOISE ABATEMENT PROCEDURES

Large (Greater Than 12,500 lbs.) and All Turbine Powered

RUNWAY 16:

Departure: Maintain runway heading and climb at (V2 + 20) not to exceed 190 KIAS. Upon reaching 800 ft. MSL turn to a 320 degree heading and set thrust to achieve 1,000 fpm climb rate to 2,500 ft. MSL. Use reduced climb power until reaching 3,500 ft. MSL.

Eastbound: Maintain runway heading and climb at (V2 + 20) not to exceed 190 KIAS. Upon reaching 1,000 ft. MSL set thrust to achieve 1,000 fpm climb rate. Use reduced climb power until reaching 3,500 ft. MSL.

Arrival: Maintain 2,500 ft. MSL or higher as long as practical. Intercept the final approach course at or beyond the ILS Outer Marker (5 DME). Use minimum flap setting and delay extending landing gear until established on the final approach. Use thrust reduction techniques and minimize rapid RPM changes.

RUNWAY 34:

Departure: Maintain runway heading and climb at (V2 + 20) not to exceed 190 KIAS. Upon reaching 1,000 ft. MSL turn to a 295 degree heading and set thrust to achieve 1,000 fpm climb rate to 2,500 ft. MSL. Use reduced climb power until reaching 3,500 ft. MSL.

Arrival: Maintain 2,500 ft. MSL or higher as long as practical. Intercept the final approach course over Long Island Sound. Use minimum flap setting and delay extending landing gear until established on the final approach. Use thrust reduction techniques and minimize rapid RPM changes.

Note: Inbound; avoid overflying shoreline communities.

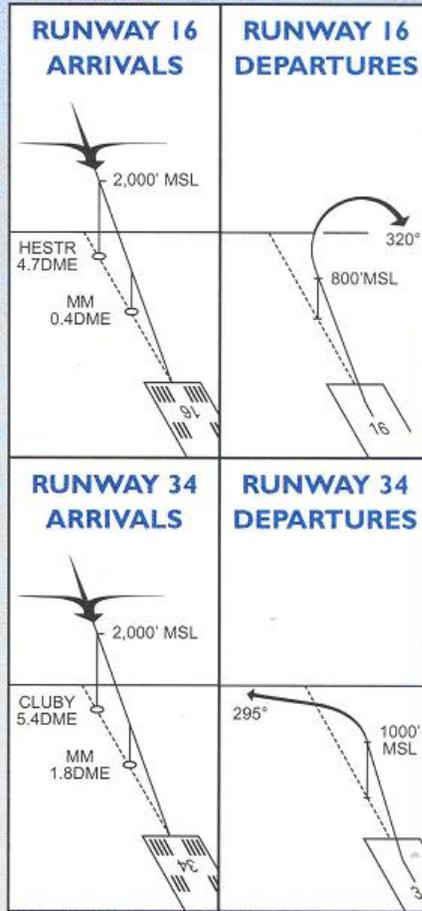
RUNWAY 11 AND 29:

Departure: Maintain runway heading and climb at (V2 + 20) not to exceed 190 KIAS. Upon reaching 1,000 ft. MSL set thrust to achieve 1,000 fpm climb rate to 2,500 ft. MSL. Use reduced climb power until reaching 3,500 ft. MSL.

Arrival: Maintain 2,500 ft. MSL or higher as long as practical. Use minimum flap setting and delay extending landing gear until beginning final descent to landing. Use thrust reduction techniques and minimize rapid RPM changes.

Note: Avoid making turns to a short final when possible.

Safety and ATC Instructions override Noise Abatement Procedures.



AIRPORT INFORMATION

Noise Abatement Office: 914-995-4861
 Operations Office: 914-995-4850
 Airport Manager: 914-995-4856
 Control Tower: 914-948-6520
 ATIS: 914-948-0130
 ASOS: 914-288-0216
 New York FSS: 1-800-VX-BRIEF

Runways:
 16/34 6,548' X 150' (ASPH-GRVD)
 11/29 4,451' X 150' (ASPH-GRVD)
 Rwy 29: Threshold Displaced

As mentioned in this voluntary noise abatement pilot handout, safety of flight and Air Traffic Control (ATC) instruction always override noise abatement procedures. (Source: Panorama Flight Service, Westchester County Airport, New York)

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Chapter 14. Restrictions Based on Safety and Efficiency Procedures and Organization

14.1 Introduction. This chapter outlines guidance and standard methodology by which FAA reviews existing or proposed restrictions on aeronautical activities at federally obligated airports on the basis of safety and efficiency for compliance with federal obligations. It does not address other airport noise and access restrictions, which are discussed in chapter 13 of this Order, *Airport Noise and Access Restrictions*.

14.2. Applicable Law. The sponsor of any airport developed with federal financial assistance is required to operate the airport for the use and benefit of the public and to make it available to all types, kinds, and classes of aeronautical activity on reasonable terms, and without unjust discrimination.³⁷ Grant Assurance 22, *Economic Nondiscrimination*, of the prescribed sponsor assurances, implements the provisions of 49 United States Code (U.S.C.) § 47107(a) (1) through (6). Grant Assurance 22(a) requires that the sponsor of a federally obligated airport:

...will make its 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.

Grant Assurance 22(h) provides that 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.

The Airport Noise and Capacity Act (ANCA), as implemented by 14 Code of Federal Regulations (CFR) Part 161, establishes a national program for review of airport noise and access restrictions on operations by Stage 2 and 3 aircraft.³⁸ In reviewing proposed safety and efficiency restrictions affecting such operations, airports district offices (ADOs) and regional airports divisions should consult with the Airport Compliance Division (ACO-100) for possible referral to the Airport Planning and Environmental Division (APP-400) and Assistant Chief Counsel for Airports and Environmental Law (AGC-600).

³⁷ The FAA shall develop plans and policy for the use of navigable airspace to ensure the safety of aircraft and efficient use of airspace. (49 U.S.C. § 40103.) The U.S. Government has exclusive sovereignty over airspace of the United States and thus makes the final decision regarding safety of aircraft.

³⁸ Safety and efficiency restrictions are typically imposed at generally aviation (GA) airports on aircraft that are not designated Stage 2 or 3 (e.g., hang gliding and banner towing aircraft). Accordingly, most safety and efficiency restrictions will be subject to review only for compliance with grant assurance and Surplus Property Act obligations, and not ANCA.

14.3. Restricting Aeronautical Activities. While the airport sponsor must allow use of its airport by all types, kinds, and classes of aeronautical activity, as well as by the general public, Grant Assurance 22, *Economic Nondiscrimination*, also provides for a limited exception: “the airport sponsor may prohibit or limit any given type, kind, or class of aeronautical use of the airport if such action is reasonable and necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.” A prohibition or limit may be based on safety or on a conflict between classes or types of operations. This generally occurs as a conflict between fixed-wing operations and another class of operator that results in a loss of airport capacity for fixed-wing aircraft. Any restriction proposed by an airport sponsor based upon safety and efficiency, including those proposed under Grant Assurance 22(i), must be adequately justified and supported.

Prohibitions and limits are within the sponsor’s proprietary power only to the extent that they are consistent with the sponsor’s obligations to provide access to the airport on reasonable and not unjustly discriminatory terms and other applicable federal law.

The Associate Administrator for Airports, working in conjunction with Flight Standards and/or the Air Traffic Organization, will carefully analyze supporting data and documentation and make the final call on whether a particular activity can be conducted safely and efficiently at an airport. In all cases, the FAA is the final arbiter regarding aviation safety and will make the determination regarding the reasonableness of the sponsor’s proposed measures that restrict, limit, or deny access to the airport.

The FAA, not the sponsor, is the authority to approve or disapprove aeronautical restrictions based on safety and/or efficiency at federally obligated airports.

14.4. Minimum Standards and Airport Regulations. An airport proprietor may adopt reasonable minimum standards for aeronautical businesses and adopt routine regulations for use and maintenance of airport property by aeronautical users and the public. These kinds of rules typically do not restrict aeronautical operations, and therefore would generally not require justification under Grant Assurance 22(i). For example, an airport sponsor may require a reasonable amount of insurance as part of their minimum standards.

a. Type, Kind, or Class. Grant Assurance 22(i) refers to the airport sponsor’s limited ability to prohibit or limit aeronautical operations by whole classes or types of operation, not individual operators. If a class or type of operation may cause a problem, all operators of that type or class would be subject to the same restriction. For example, if the sponsor of a busy airport finds that skydiving unacceptably interferes with the use of the airport by fixed-wing aircraft, and the FAA agrees, the sponsor may ban skydiving at the airport. However, the sponsor could not ban some skydiving operators and allow others to operate. If a sponsor believes there is a safety issue with the flight operations of an individual aeronautical operator, rather than a class of operations, the sponsor should report the issue to the Flight Standards Service as well as bringing it to the attention of the operator’s management.

The term “kind” in Grant Assurance 22(i) is not defined in the Federal Aviation Act of 1958 (FAA Act), the Airport and Airway Improvement Act of 1982 (AAIA), or in FAA regulations, and has been interpreted not to add any meaning distinct from “class” and “type” of operation or operator.

b. Multi-Airport Systems. The operator of a system of airports may have some ability to accommodate operations at its other airports if those operations are restricted at one airport in the system. However, any access restrictions must still be fully justified, based on a safety or efficiency problem at the airport where the restrictions apply. Such restrictions must also comply with ANCA. The operator may not simply allocate classes or types of operations among airports based on preference for each airport’s function in the system.

c. Purpose. A prohibition or limit on aeronautical operations justified by the sponsor on the basis of safety or efficiency, under Grant Assurance 22(i), will be evaluated based on the stated purpose, justification, and support offered by the sponsor. If it appears that the sponsor actually intends the restriction to partially or wholly serve other purposes, such as noise mitigation, the safety and efficiency basis of the restriction should receive special scrutiny.

d. Examples of Grant Assurance 22(i) restrictions.

(1). Examples of airport rules approved by the FAA prohibiting, limiting, or regulating operations under Grant Assurance 22(i) have included:

(a). Limiting skydiving, soaring, and banner towing operations to certain times of the day and week to avoid the times of highest operation by fixed-wing aircraft.

(b). Banning skydiving, soaring, ultralights, or banner towing when the volume of fixed-wing traffic at the airport would not allow those activities without significant delays in fixed-wing operations.

(c). Limiting skydiving, soaring, and ultralight operations to certain areas of the airfield and certain traffic patterns to avoid conflict with fixed-wing patterns.

(d). Restricting agricultural operations due to conflict with other types of operations or lack of facilities to handle pesticides safely that are used in this specialized operation.

(2). Examples of restrictions which the FAA has found were not justified for safety or efficiency under Grant Assurance 22(i) have included:

(a). A nighttime curfew for general aviation operations, based on safety, when Part 121 operators were allowed to operate in night hours.

(b). A ban on scheduled commercial operations, based partly on safety grounds, when nonscheduled commercial operations were permitted.

(c). A ban on certain categories of aircraft, based on safety, where the banned categories of operator were defined solely by aircraft design group, which is an airport planning and design criterion based on approach speed for each aircraft type.

(d). A total ban on skydiving, when skydiving could be accommodated safely at certain times of the week with no significant effect on fixed-wing traffic.

(3). Examples of operational restrictions that generally do not require justification under Grant Assurance 22(i).

(a). Examples of airport rules approved by the FAA prohibiting, limiting, or regulating aeronautical operations that would not require justification under Grant Assurance 22(i) have included:

(i). Designated runways, taxiways, and other paved areas that may be restricted to aircraft of a specified maximum gross weight or wheel loading.

(ii). Designated areas for maintenance, fueling, and aircraft painting.

(iii). Use of airport facilities by the general public may be restricted by vehicular, security, or crowd control rules.

14.5 Agency Determinations on Safety and System Efficiency. The FAA airports district office (ADO) or regional airports division will make the informal (Part 13.1) determination and the Office of Compliance and Field Operations (ACO) will make the formal (Part 16) determination on whether a particular access restriction is a violation of the airport sponsor's grant assurances, subject to appeal to the Associate Administrator for Airports. However, when an informal Part 13.1 report or formal Part 16 complaint is filed regarding an access restriction based on safety or air traffic efficiency, the FAA Office of the Associate Administrator for



An Airports Airspace Analysis has been used to assess the safe and efficient use of the navigable airspace by aircraft and/or the safety of persons and property on the ground, including ultralights, banner towing, acrobatic flying, gliders, and parachute jumping functions. Analysis would include internal FAA coordination with the appropriate FAA offices (Flight Standards and/or Air Traffic) and a review of flight procedures. (Photo: FAA)

Airports should obtain assistance from the appropriate FAA office, usually Flight Standards for safety issues and Air Traffic for efficiency and utility issues. While Flight Standards has jurisdiction for safety determinations, coordination with Air Traffic or other FAA offices might be required in cases where the aeronautical activity being denied has an impact on the efficient use of airspace and the utility of the airport.

14.6. Methodology. The goal of this guidance is to provide a standard procedure for addressing technical safety and efficiency claims in support of an airport access restriction. It is often appropriate to ask Flight Standards to conduct a safety review or to ask Air Traffic for an airspace study to determine the impact of a restriction on the safety, efficiency, and utility of the airport. The determinations provided by these offices may be an important part of the decision making process and material record used as part of a Director's Determination (DD) and Final Agency Decision (FAD) and possibly for a decision subject to judicial review.

A sponsor's justification for a proposed restriction should be fully considered, but should also be subjected to an independent analysis by appropriate FAA offices. Early contact with Flight Standards as part of an investigation is desirable since it is possible that a safety determination may already have been made. For example, certain operators may already possess a "Certificate of Waiver or Authorization" from Flight Standards to conduct the aeronautical activity the airport is attempting to restrict, such as banner towing. Such a document would allow certain operations to remain in compliance with Part 91, *General Operating and Flight Rules*. These "waivers" or "authorizations" are de facto safety determinations; their issuance implies that the activity in question can be safely accommodated provided specified conditions are followed.

Similarly, if applicable, the FAA Office of the Associate Administrator for Airports should check with Air Traffic early in the investigation in order to determine whether or not any Air Traffic special authorization or study affecting the aeronautical activity in question was issued or exists.

However, when neither an FAA Flight Standards safety nor an Air Traffic determination or study exists, a review process that includes Flight Standards and/or Air Traffic should be coordinated by the FAA Office of the Associate Administrator for Airports to address the issue of accommodating the aeronautical activity in question at the airport. Depending on Flight Standards/Air Traffic familiarity with the affected airport and its operation, a site inspection may or may not be required. After an evaluation, Flight Standards and/or Air Traffic may or may not decide that a particular activity may be able to be safely conducted at the airport. The ADO, regional airports division, or ACO will issue a determination based on the analysis of all responses.

14.7. Reasonable Accommodation. The purpose of any investigation regarding a safety-based or efficiency-based restriction of an aeronautical use is to determine whether or not the restricted activity can be safely accommodated on less restrictive terms than the terms proposed by the airport sponsor without adversely affecting the efficiency and utility of the airport. If so, the sponsor will need to revise or eliminate the restriction in order to remain in compliance with its grant assurances and federal surplus property obligations.

A complete prohibition on all aeronautical operations of one type, such as ultralights, gliders, parachute jumping, balloon and airship operations, acrobatic flying, or banner towing should be approved only if the FAA concludes that such operations cannot be mixed with other traffic without an unacceptable impact on safety or the efficiency and utility of the airport.

When it is determined that there are less restrictive ways or alternative methods of accommodating the activity while maintaining safety and efficiency, these alternative measures can be incorporated in the sponsor's rules or minimum standards for the activity in question at that airport.

a. Other agency guidance. Any accommodation should consider 14 Code of Federal Regulations (CFR) Part 91, as well as specific FAA regulations and advisory circulars for the regulated activity. These include:

(1). For ultralight operations: 14 CFR Part 103, *Ultralight Vehicles*; Advisory Circular (AC) 103-6, *Ultralight Vehicle Operations, Airports, Air Traffic Control, and Weather*; and AC 90-66A, *Recommended Standard Traffic Patterns and Practices for Aeronautical Operations at Airports Without Operating Control Towers*.

(2). For skydiving: 14 CFR Part 105, *Parachute Operations*; and AC 105-2C, *Sport Parachute Jumping*.

(3). For balloon operations: AC 91-71, *Operation of Hot Air Balloons with Airborne Heaters*.

(4). For banner towing operations: Flight Standards Publication *Information for Banner Tow Operations*, available online on the FAA web site.

b. Examples of Accommodation Measures. Some measures that airports have used to accommodate activities safely and efficiently in lieu of a total ban include:

(1). Establishing designated operations areas on the airport. An airport can designate certain runways or other aviation use areas at the airport for a particular class or classes of aircraft as a means of enhancing airport capacity or ensuring safety.

(2). Alternative traffic patterns and touchdown areas. Examples of this would be a glider operating area next to a runway or a helicopter practice area next to a runway as long as there is proper separation to maintain safety.

(3). Special NOTAM (Notice to Airmen) requirements.

(4). Special handheld radio requirements.

(5). Special procedures and required training.

(6). Seasonal authorization or special permission.

- (7). Waivers issued by Flight Standards under 14 CFR section 103.5 or other applicable regulations and policies.
- (8). Special use permit, pilot registration, and fees.
- (9). Limits on the total number of operations in the restricted class. (It might be easier to accommodate just a few operations.)
- (10). Letters of agreement with Air Traffic Control (ATC), if applicable.
- (11). Restricted times of operations and prior notification.
- (12). Weather limitations.
- (13). Nighttime limitations.

14.8. Restrictions on Touch-and-Go Operations. A touch-and-go operation is an aircraft procedure used in flight training. It is considered an aeronautical activity. As such, it cannot be prohibited by the airport sponsor without justification. For an airport sponsor to limit a particular aeronautical activity for safety and efficiency, including touch-and-go operations, the limitation must be based on an analysis of safety and/or efficiency and capacity, and meet any other applicable requirements for airport noise and access restrictions explained in chapter 13 of this Order, *Airport Noise and Access Restrictions*.

14.9. Sport Pilot Regulations.

a. General. In 2004, the FAA issued new certification requirements for light-sport aircraft, pilots, and repairmen. The FAA created two new aircraft airworthiness certificates: one for special light-sport aircraft, which may be used for personal as well as for commercial use; and a separate certificate for experimental light-sport aircraft (including powered parachutes and other light aircraft such as weight-shift and some homebuilt types), which may be used only for personal use. The rule also establishes requirements for maintenance, inspections, pilot training, and certification. The FAA worked with the general aviation (GA) community to create a rule that sets safety standards for people who will now earn FAA certificates to operate more than 15,000 uncertificated, ultralight-like aircraft. The rule's safety requirements should also give this segment of the GA community better access to insurance, financing, and airports.

b. Compliance Implications. A proposed restriction affecting these aircraft should be analyzed like the other cases addressed in this chapter, with coordination with Flight Standards and/or Air Traffic as appropriate.

14.10. Coordination. The sample correspondence at the end of this chapter will assist in coordinating action with either Flight Standards or Air Traffic. Sample correspondence includes a request for a safety determination, a Flight Standards response, an Air Traffic assessment and response, and an FAA objection to a proposed accommodation of an aeronautical activity.

14.11. through 14.15. reserved.



U.S. Department
of Transportation
Federal Aviation
Administration

Memorandum

Subject: **ACTION:** Request for Safety Determination -
Formal Complaint 16-00-11

Date: **APR 10 2001**

Mr. William Dean Bardin
v.
County of Sacramento

From: Director, Airport Safety and Standards
AAS-1

Reply to Wayne Heibeck
Attn. of: (202) 267-3187

To: Manager, Western Pacific Airports Division -
AWP-600

It is our responsibility to review and issue a Director's Determination on the above-mentioned complaint under FAR Part 16. The complaint relates to Sacramento County, prohibiting ultralight vehicles at Franklin Field (Q53 - uncontrolled airport) on the grounds that such operations are unsafe.

We believe that insufficient safety related information relating to this case exists for a compliance determination. The complaint filed requires the FAA to determinate whether or not the prohibition instituted by the airport sponsor violates the requirement "to make its airport available as an airport for public use on reasonable terms, and without unjust discrimination, to all types, kinds, and classes of aeronautical uses." Flight Standards assistance in the form of a safety determination and/or recommendation is required. It would:

1. Substantiate a FAA (AAS-1) decision on the reasonableness of the restriction.
2. Be worthwhile as both parties in the complaint disagree on whether or not ultralight operations at Franklin are safe.
3. Would permit AAS-1 to adhere to FAA order 5190.6A, section 4-8, which addresses safety related restriction at federally-obligated airport and specifies the role(s) of other FAA entities, one of which is Flight Standards. Specifically, FAA Order 5190.6A, Section 4-8 states:

In cases where complaints are filed with FAA, Flight Standards and Air Traffic should be consulted to help determine the reasonableness of the airport owner's restrictions. It may be appropriate to initiate an FAA airspace study to determine the efficiency and utility of the airport when

Sample Request for Safety Determination, Page 1

considering the proposed restriction. In all cases the FAA will make the final determination of the reasonableness of the airport owner's restrictions which denied or restricted use of the airport.

4. Strengthen the record given that the current complaint could lead to a Final Agency Decision, which in turn may be subjected to judicial review.

Given the existing situation, please coordinate with the region's Flight Standards Division, AWP-200, to have them conduct an analysis of options regarding the possibility of safely accommodating ultralight operations and the compatibility of ultralight operations with other aeronautical uses at Franklin Field as soon as possible.

Attached is a copy of the complaint documents we have received. Please notify us as soon as practicable of AWP-200's timeframe for completion of this analysis.



David L. Bennett

Attachment

The following is the suggested response to the Airports Division request for a safety review of Franklin Field.

Personnel of the Sacramento Flight Standards District Office (FSDO) have conducted a safety review of the Franklin Field Airport as request in the Memo dated April 10, 2001.

An Inspector reviewed the available safety related material provided by the users of Franklin Field, maps and the comments from the County of Sacramento. A site inspection was conducted and revealed an area on the northwest part of the airport could accommodate ultralight operations.

Franklin Field is a heavily used uncontrolled airport for pilot training and agricultural operations. Flight schools both helicopter and airplanes use the field. The mix of ultralight and aircraft traffic has generated numerous complains.

On June 5, 2001, the FSDO inspector met with the SFO-ADO and personnel for the County of Sacramento, Division of Airports. Another site visit was concluded with the above organizations and all parties agree it was possible for ultralights to operate within specific guidelines.

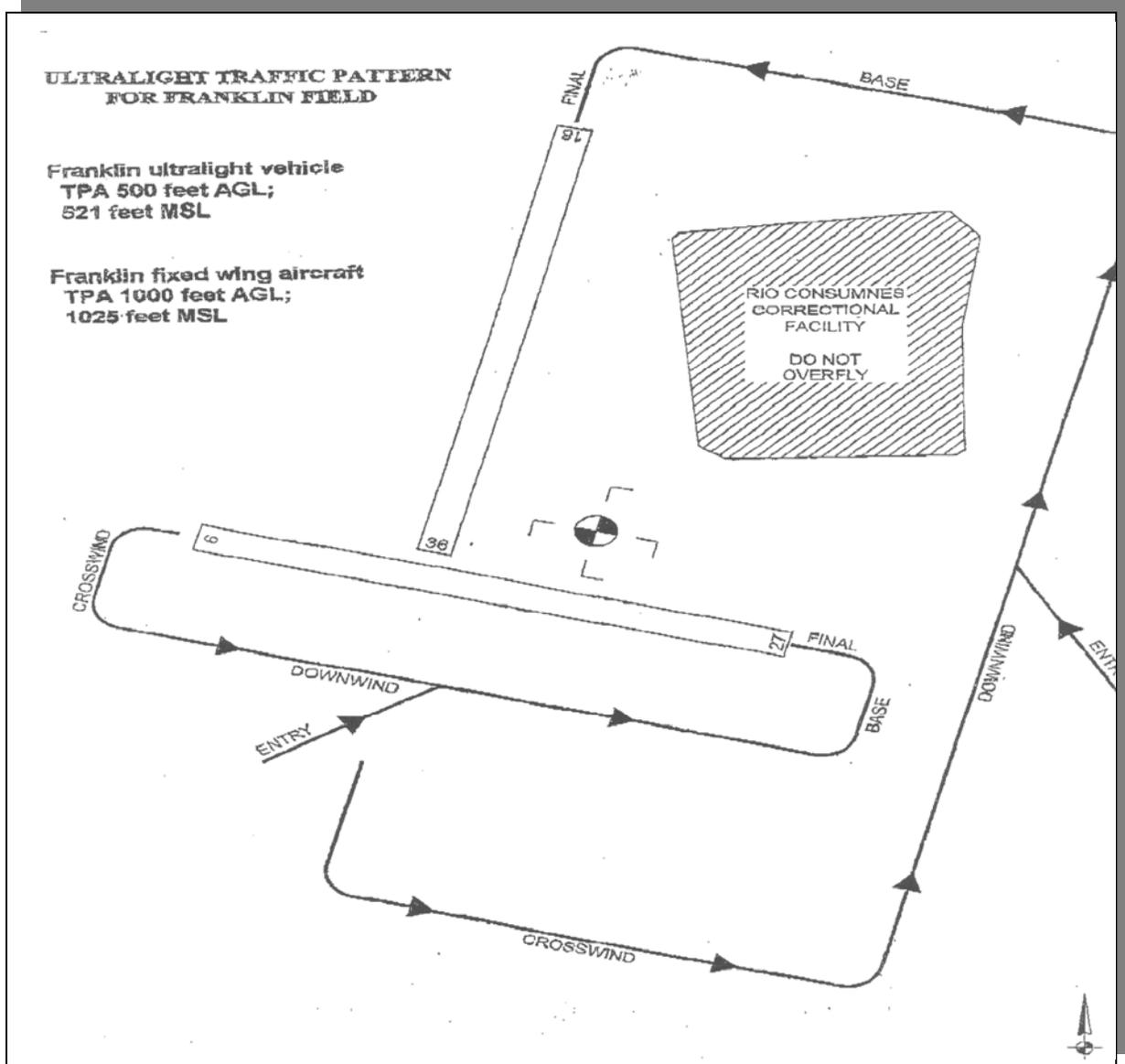
The area northwest along the airport boundaries is large enough to provide reasonable accommodation for ultralight operations. An area in the grass could be graded for a landing and ramp areas. The traffic pattern altitude should no higher than 400 feet; this would keep the ultralights away from the normal aircraft flow.

In addition, the following should be considered by the County of Sacramento in the effort to make reasonable accommodations for the ultralight activities:

- Establish designated operations area.
- Transient versus based ultralight operations.
- Alternative traffic patterns as per AC 90-66A.
- NOTAM requirements.
- Spocial use permits for pilot and aircraft.
- Level of purposed operations the airport.
- Times of operation and prior notification if required.
- Weather limitation.
- Daytime versus nighttime operations.

It is recommended that a meeting with the County of Sacramento, SFO-ADO, Sacramento FSDO and the ultralight users group be schedulc, as soon as possible, to work out the details and any special provisions for the operation of ultralights at Franklin Field.

Sample Flight Standards Response



Sample Visual Depiction of Flight Standards-Approved Flight Pattern to Accommodate Ultralight Operations



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

Memorandum

Air Traffic Control Tower
St. Petersburg-Clearwater Int'l Airport
Clearwater, FL 33762

Subject: INFORMATION: Review Aeronautical Study No. 01-ASO- 3059-NRA **Date:** 4/25/01

From: Air Traffic Manager,
ATCT, Clearwater , Florida

To: Lee Blaney, ORL-610A

When I took over the position of Air Traffic Manager for St. Petersburg-Clearwater Air Traffic Control Tower (PIE) in 1996, I was briefed by my predecessor that the Pinellas County Airport Director did not allow banner towing operations at the airport. To my knowledge there have not been any banner towing operations, with the exception of one emergency landing by a banner tower. *I highly recommend that the Pinellas County Airport Authority continue its present policy to prohibit banner tow operations at PIE due to safety concerns.*

PIE Control Tower handled 229,215 operations in 2000. This is over a 30% increase in air carrier, corporate jet and general aviation since 1996. The layout of PIE runways makes this a very complex operation, which can only be worked safely under certain conditions. There are three crossing runways, which mean aircraft landing or departing one runway will cross the traffic path of one or more other runways. The determination of which runways to use is dependent upon the type of traffic at the time and the existing meteorological conditions. We try to use two or three runways at a time in pre-established patterns and this requires very precise timing. The preferred runway configuration is Runways 4, 9, 35R simultaneously. This configuration generally allows the controller to work the maximum number of aircraft and minimize delays. However, at times only one runway can be used. Because of the increased volume of traffic and existing runway configuration, the tower intermittently reaches a maximum safe number of aircraft operating at one time. The individual controller working the tower determines that number, based on the volume and complexity at the time. When that level is reached, any further aircraft movements are denied or curtailed. Presently, we estimate that occurs at PIE more than 10% of the time. As our volume increases, the frequency of denying services will increase.

We expect the volume of traffic to continue to increase at an even higher rate than in the past due to several upcoming events. First, we will be installing a CAT II ILS this year. The capability for pilots to shoot a CAT II ILS practice approach will attract more aircraft from other airports to make these practice approaches. Second, the three flight schools on the field are expanding. In fact, the number of practice operations increased by 7% in the last year. One of the flight schools has applied for a permit to open a new Part 141 school. Third, Embry Riddle Aeronautical University (ERAU) has recently gone into partnership

with St. Petersburg Junior College to provide bachelor's and master's degrees in professional aeronautics. This program is expected to draw students not only from the entire west coast of Florida, but also internationally. We anticipate ERAU's presence on the west coast will attract student activity similar to that experienced by ERAU at Daytona Beach Airport/Air Traffic Control Tower, on the east coast. The St. Petersburg-Clearwater Airport agreed to provide classroom and hanger space for ERAU's airplanes in the future and have already given approval for construction of a large building for classrooms on land adjacent to the airport.

In addition to flight training, the Airport is actively looking for additional commercial flights, both passenger and cargo. Funds have been appropriated to extend the main runway to 10,000 feet in order to accommodate overseas flights and heavy cargo planes. The Airport has been negotiating with various companies that would like to take advantage of the extended runway for their operations. There are plans to build a joint military reserve training center on the airport this year, which includes locally based helicopters and the probability of additional itinerant military traffic.

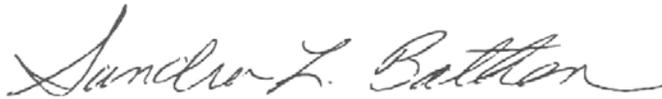
Banner towing operations would not readily fit into the patterns of established operations at PIE, practice or itinerant flights. They're low flying, slow moving operations that don't mix well with other flights. They also involve having a ground crew go out onto the airfield twice, to set up and later remove the banner. If the banner pick-up area is in the safety area of a runway, the runway is essentially closed from the time the crew goes out onto the airfield until the banner has been picked up and the site cleared. From a safety standpoint, banner towing is suited to small airfields without commercial flights.

In 2000, PIE had 229,215 operations and Tampa International Airport had 277,863 operations. The Hillsborough County Aviation Authority has not allowed banner towing for many years due to safety issues and traffic volume. When airports reach the volume that Tampa and St. Petersburg-Clearwater have, banner-towing operations cannot safely be worked into the traffic. High volume airports with commercial flights do not allow banner towing because it would result in interruption of the traffic flow and untenable delays for other aircraft in order to clear the way for banner-towing aircraft. Commercial jets are designed for fast flight and do not maneuver quickly when in landing or take-off configurations. It compromises their safety to mix in operations that have the potential to interrupt the traffic flow and cause aborted take-offs or landings. In addition to the airlines and air taxis, there are at least three air ambulance companies based at PIE. When they file as "Life Guard", they cannot be delayed for other aircraft. The Coast Guard has search and rescue flights that require priority handling. When any inbound commercial flights are delayed, they back up into Tampa's already congested airspace. For controllers to work several aircraft safely, they need routine procedures and flights. Whenever they have to interrupt the established flow, it is a distraction, and distractions always decrease safety. If banner towing were permitted at PIE, there are conceivably a minimum of two companies that intend to conduct some or all of their operations from PIE. They have a significant potential to interrupt air traffic and impact safety. Additionally, if banner towing were allowed at PIE, it would undoubtedly attract other banner tow companies due to PIE's

geographical location. There are no Hillsborough County airports which permit banner towing.

Traffic volume at PIE is quite variable. As stated above, there are times when PIE is forced to deny operations for safety reasons, and we do this by curtailing the number of aircraft making practice approaches or touch-and-go's. At times, touch-and-go's are not permitted due to traffic volume and complexity. Volume variations are intermittent and cannot be predicted in advance. While not optimal, student pilots can tolerate interruptions to their practice flights and they reschedule for another flight time. Banner towing is a commercial enterprise that could not operate in an environment where they were subject to having their flight requests denied.

We highly recommend that the Pinellas County Airport Authority continue its present policy to prohibit banner tow operations at PIE due to safety concerns.



Sandra L. Bathon



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

Orlando Airports District Office
5950 Hazeltine National Dr., Suite 400
Orlando, FL 32822-5003

Phone: (407) 812-6331

Fax: (407) 812-6978

December 5, 2006

Mr. Nickolis A. Landgraff
Airport Manager
City of DeLand
1777 Langley Ave.
DeLand, FL 32724

Dear Mr. Landgraff:

RE: Agency Review
DeLand Skydiving Agreement

We received your November 14, 2006 correspondence regarding the proposed agreement between the City of DeLand, the skydiving operators of DeLand Airport, and the proposed airport traffic control tower (ATCT). While we applaud the sponsor for its proactive efforts to come to agreement with the operators of skydiving operations at the airport, we are concerned that the structure of the document removes the airport's ability to adhere to its grant agreements into the future. Specifically, there are a number of provisions of the Agreement that concern the Federal Aviation Administration (FAA), which we have listed below.

- The FAA must review any agreement that includes safety requirements that differ from those required by federal regulation. This is true regardless if the requirements will be more or less stringent, and the requirements are continually subject to review, considering constantly changing circumstances. This review would not only include ATCT, as the agreement states, but also Flight Standards and Airports Divisions.
- While the agreement states that it will seek FAA concurrence, it appears that the parties only intended to seek input from the local FAA ATCT. FAA Flight Standards and Airports Divisions *must* be consulted. Therefore, once a final draft of this agreement is made, it should be coordinated through the Orlando ADO.
- II.C. – Both Skydive Deland and the city of Deland must understand that any provision agreed to in this document cannot overrule the applicable Federal Aviation Regulations. Specifically, one provision needing further review by Flight Standards includes #3, which states:

"The first radio communication of the day by a Jump Aircraft shall activate the DZ. When the Deland Drop Zone is activated, the Tower Operator is

Sample FAA Objection to a Proposed Overreaching Accommodation of an Aeronautical Activity, Page 1

deemed to have authorized all Jump Aircraft, their pilots and Parachutists for continuous operations in the Deland Class 'D' airspace. This authorization will remain in effect until the last load of the day." [emphasis added.]

FAR Part 105 requires the pilot-in-command to maintain radio communications with air traffic control at least 5 minutes before the parachute operations begin and must, during each flight, advise air traffic control when the last parachutist or object exits the aircraft. Specific information must be provided to air traffic control under certain circumstances as required by FAR Part 105.15 and Part 105.25.

There is no guarantee that transient aircraft will hear the first communication of the day activating the drop zone. Also, there may be times that the drop zone may need to be closed to conduct airfield inspections or to pick up foreign object debris. Again, FAA Flight Standards must review these provisions to ensure continued flight safety.

- II.D. – The Agreement specifies what the tower operator shall commit to. For example,

"The Tower Operator shall comply with the following: The Tower Operator shall not impose unreasonable limitations because of wind speed or direction...the Tower Operator and the Skydiving Industry stipulate and agree that aircraft operations and skydiving operations shall operate concurrently as a preferred policy and that all parties shall act and engage in conduct that optimizes concurrent operation of flight and skydiving operation, without unnecessary delays."

Who determines the reasonableness of limitations imposed by ATC? An operating control tower makes decisions based on operational safety and efficiency. Additionally, during a given situation, it may not be operationally efficient or safe for the concurrent operation of flight and skydiving activities -- those determinations must be made by Air Traffic, Flight Standards, and the pilot-in-command, not the airport or skydiving industry.

- The City cannot preempt the right to use the airport by skydivers above all other users in perpetuity. The federal obligations require access for *all* aeronautical users, not just skydivers. While the skydiving community provides large economic stimulus for the airport and surrounding community, any unreasonable restrictions limiting access to other aeronautical users would be a violation of grant assurance and will not be accepted.
- III. – The Agreement includes provisions for an advisory committee and specifies the members of that committee. Under the current Agreement, there are no provisions for an airport or FAA ATC representative to be part of the committee. While there is no regulation or statute to mandate inclusion, the airport should be

Sample FAA Objection to a Proposed Overreaching Accommodation of an Aeronautical Activity, Page 2

advised of this oversight and guided to include members of these two important parties to ensure a complete representation of those involved in operations at the airport.

- The FAA is concerned that this agreement is a contract, which appears to be an enforceable agreement. The agreement should not be a contract.
- While it is acceptable that the Airport can promulgate procedures and policies, it is a violation of Grant Assurance 5 (Rights and Powers) to PREVENT the sponsor from ever changing the policies and procedures in response to the interests of the public in civil aviation. This contract would prevent such changes. While some of these procedures could be adopted (with the exceptions discussed above) as minimum standards and policies, the airport sponsor cannot give away its discretion to manage this airport in the interests of civil aviation. For example, commercial service airports cannot force themselves to deny general aviation because they've agreed to with certain wishes of commercial operators. There must be other conditions, and even then they can only encourage the use of relievers for general aviation.

If you have any questions regarding these comments, please feel free to call me.

Once you have addressed these comments and revised the agreement, please forward the final draft to this office in my attention for agency review.

Sincerely,

Original Signed By

Rebecca R. Henry
Program Manager
Planning and Compliance



Federal Aviation
Administration

AIRPORT SPONSOR & AIRPORT USER RIGHTS AND RESPONSIBILITIES



AIRPORT SPONSOR & AIRPORT USER RIGHTS AND RESPONSIBILITIES

The rights and responsibilities of the sponsors and users of federally obligated public-use airports are based on Federal law. In exchange for Federal airport development assistance (including the transfer of Federal property for airport purposes), airport sponsors make binding commitments to assure that the public's interest in civil aviation will be served. An airport sponsor's responsibilities are commonly referred to as its Federal grant obligations or grant assurances.

The Federal Aviation Administration (FAA) has a statutory mandate to ensure that airport owners comply with their grant obligations. [FAA Order 5190.6B, *Airport Compliance Manual*](#), issued September 30, 2009, generally provides the policies and procedures to be followed by the FAA in carrying out this duty. The Order is not regulatory and is not controlling with regard to airport sponsor conduct; rather it establishes the policies and procedures to be followed by FAA personnel in carrying out the FAA's responsibilities for ensuring airport compliance.

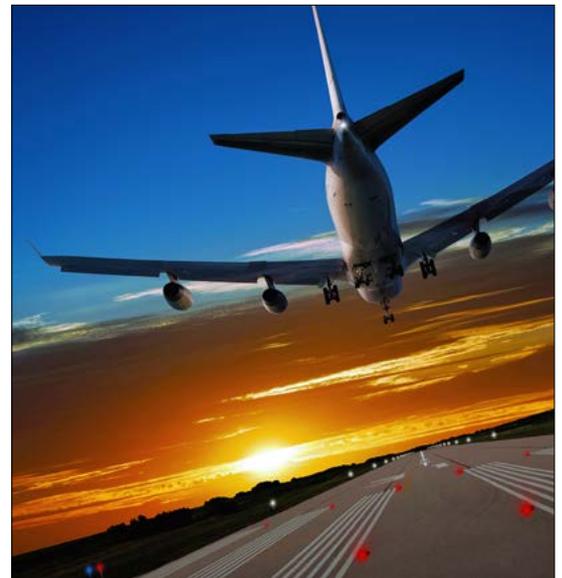
The FAA Airport Compliance Program is designed to ensure the availability of a national system of safe, properly-maintained, public-use airports operated in a manner consistent with the airport owners' Federal obligations and the public's investment in civil aviation. The Airport Compliance Program does not control or direct the operation of airports; rather, it monitors the administration of the valuable rights pledged by airport sponsors to the people of the United States in exchange for monetary grants and donations of Federal property to ensure that the public interest is being served. More information about the [FAA's Airport Compliance Program](#) is available.

From time to time, individual airport users and airport sponsors may view these grant obligations differently. In most cases, airport users and airport sponsors are able to work together to identify a solution which is consistent with the airport sponsor's obligations and acceptable to both parties. However, when the two parties cannot come to an agreement, they may ask the FAA to help them interpret how the airport sponsor's obligations apply. The following discussion will serve as a guide to current FAA policy interpretation of the applicable laws and those sponsor assurances which commonly affect aeronautical users' rights at federally obligated public-use airports nationwide. The complete list of [sponsor assurances](#) is available.

Airport Owner Rights and Powers

Grant Assurance 5, *Preserving Rights and Powers*, requires, in pertinent part, that the sponsor of a federally obligated airport:

“...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 the 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.”



Put simply, an airport sponsor is prohibited from taking any action which could preclude it from complying with its grant obligations. For example, an airport sponsor may not enter into a management agreement which would result in exclusive use or discrimination at the airport. Airport sponsors are strongly encouraged to use strong subordination clauses to ensure their ability to comply with Grant Assurance 5.

In addition to obligating the airport sponsor to preserve its rights and powers to carry out all grant agreement requirements, this assurance also places certain limitations on the sponsor's use of airport land. Most real estate transactions require prior FAA approval, and airport sponsors are prohibited from encumbering airport property.



Use on Reasonable and Not Unjustly Discriminatory Terms

Grant Assurance 22, Economic Nondiscrimination, requires, in pertinent part, that the sponsor of a federally obligated airport:

“...will make its airport available as an airport for public use on reasonable terms, and without unjust discrimination, to all types, kinds, and classes of aeronautical uses.” Assurance 22(a)

“...may establish such equal 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.” Assurance 22(h)

“...may...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...to serve the civil aviation needs of the public.” Assurance 22(i)

Subsection (h) qualifies subsection (a) and subsection (i) represents an exception to subsection (a) to permit the sponsor to exercise control of the airport sufficient to preclude unsafe and efficient use of navigable airspace which would be detrimental to the civil aviation needs of the public. However, any airport sponsor restrictions on aeronautical activities based upon safety and efficiency under Assurance 22(i) must be adequately justified and supported, and they must be approved in advance by the FAA. In all cases, the FAA is the final arbiter regarding aviation safety and will make the determination regarding the reasonableness of any proposed measure to restrict, limit, or deny aeronautical access to the airport. The FAA considers it inappropriate to provide federal assistance for improvements to airports where the benefits of such improvements will not be fully realized due to inherent restrictions on aeronautical activities.

Federally obligated airport sponsors are required to operate airports for the use and benefit of aeronautical users and to make those airports available to all types, kinds, and classes of aeronautical activities on fair and reasonable terms, and without unjust discrimination. However, airport sponsors may adopt reasonable commercial minimum standards and/or airport rules and regulations.

Airport sponsors have an obligation to treat in a uniform manner those users making the same or similar use of the airport. However, an airport sponsor may treat similarly situated airport users differently, including rental rates, lease terms, etc., as long as those differences are not unjust. Typically, in order to sustain an allegation of unjust economic discrimination, a complainant must establish they requested similar terms and conditions as another similarly situated user, but was denied those terms for unjust reasons.

Restrictions on Self-servicing of Aircraft

Grant Assurance 22(f) provides that an airport sponsor:



“...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.”

The FAA considers the right to self-service as prohibiting the establishment of any unreasonable restriction on the owners or operators of aircraft regarding the servicing of their own aircraft and equipment. When airport users and airport sponsors disagree about whether or not a restriction is reasonable and a formal complaint is filed, the FAA becomes the final arbiter in the matter.

Aircraft owners must be permitted to fuel, wash, repair, and otherwise take care of their own aircraft with their own personnel, equipment, and supplies. The airport sponsor, however, is obligated to operate the airport in a safe and efficient manner. The establishment of fair and reasonable rules, applied in a not unjustly discriminatory manner, governing the introduction of equipment, personnel, or practices which would be unsafe, unsightly, detrimental to the public welfare, or which would affect the efficient use of airport facilities by others, is not unreasonable.

The Prohibition Against Exclusive Rights

Grant Assurance 23, Exclusive Rights, provides, in pertinent part, that the sponsor of a federally obligated airport:

“...will permit no exclusive right for the use of the airport by any persons providing, or intending to provide, aeronautical services to the public...”

The fact that an aeronautical activity is provided by only one entity does not necessarily establish an exclusive rights violation. An exclusive rights violation is the denial by an airport sponsor to afford other qualified parties an opportunity to be an on-airport aeronautical service provider.

Although federally obligated airports may impose qualifications and minimum standards upon those who engage in aeronautical activities, the FAA has taken the position that the application of any unreasonable requirement or standard that is applied in an unjustly discriminatory manner may constitute a constructive grant of an exclusive right. When airport users and airport sponsors disagree about whether or not a requirement is reasonable and a formal complaint is filed, the FAA becomes the final arbiter in the matter.

Grant Assurance 23 provides for two limited exceptions. An airport sponsor may choose to offer some or all aeronautical services itself and exclude other entities from competing with these services. This is referred to as the airport sponsor's proprietary exclusive right. If an airport sponsor chooses to exercise its proprietary exclusive right to offer aeronautical services, it must do so with its own resources and its own employees; airport sponsors may not contract out their proprietary exclusive right. The second exception applies when the airport sponsor faces unreasonably costly, burdensome, or impractical challenges in accommodating more than one fixed-base operator to provide a service and adding a second fixed-base operator would result in a reduction in space leased to and actively used by the existing fixed-base operator.

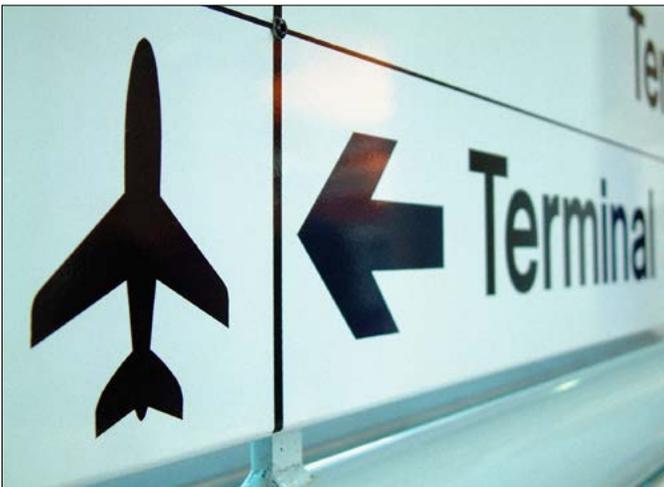
Airport Rates and Charges

Grant Assurance 24, Fee and Rental Structure, provides, in pertinent part, that the sponsor of a federally obligated airport:

“...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 that particular airport, taking into account such factors as the volume of traffic and economy of collection.”

The airport sponsor's obligation to make an airport available for public use does not preclude the owner or sponsor from recovering the cost of providing the facility. The owner or sponsor is expected to recover its costs through the establishment of fair and reasonable fees, rentals, or other user charges that will make the airport as self-sustaining as possible under the circumstances existing at the particular airport.

The [FAA's Policy Regarding Airport Rates and Charges](#) (61 Fed. Reg. 31994; June 21, 1996 as amended) provides comprehensive guidance on the legal requirement that airport fees be fair, reasonable, and not unjustly discriminatory. Federal law does not prescribe a single approach to rate-setting; airports may utilize their preferred methodology as long as that methodology is applied consistently to similarly-situated aeronautical users and conforms to other requirements outlined in the FAA's Rates and Charges Policy. Ordinarily, the FAA will not investigate the reasonableness of a general aviation airport's fees absent evidence of a progressive accumulation of surplus aeronautical revenues.



The Use of Airport Revenue

Grant Assurance 25, Airport Revenues, provides, in pertinent part, that:

“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...” Assurance 25(a)

Revenue generated by the airport includes aeronautical and nonaeronautical rents, fees, charges, and other payments received by the airport sponsor. Airport revenue must be used for the operational and capital costs of the airport, the local airport system, or other facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property. Certain airports are exempted from this requirement because the law grandfathers certain financial arrangements that existed prior to September 3, 1982.

The FAA's Policy and Procedures Concerning the Use of Airport Revenue (64 Fed. Reg. 7696; February 16, 1999) provides several examples of unlawful revenue diversion. Some of these examples include:

- Paying in excess of the value of goods or services the airport receives;
- Improper cost allocations;
- Charging less than fair market value rental rates to nonaeronautical users, including the sponsor itself;
- Directly subsidizing air carriers;
- Using airport revenue for general economic development activities;
- Paying for marketing and promotions not related to the airport;
- Loaning money to other entities at less than prevailing rates; and
- Using airport revenue to participate in some types of community events.

COMPLAINT RESOLUTION

The FAA's role in adjudicating disputes between airport users and airport sponsor's is to ensure the sponsor's compliance with its Federal obligations. When allegations made in a complaint are verified, the FAA works with the airport sponsor to develop a corrective action plan to address the findings of noncompliance. **Please note that the FAA does not have the legal authority to award monetary judgments or order payment for damages.**

Informal Complaint Process

Under 14 Code of Federal Regulations § 13.1, any person who knows of a violation of Federal aviation laws, regulations, rules, policies, or orders may report the violation to the FAA informally as a “report of violation.” Airport users may report allegations of grant assurance violations to the FAA under Section 13.1. This is commonly referred to as an “informal complaint.”

The FAA strongly encourages individuals seeking to file informal complaints under 14 CFR, § 13.1, to do so in writing. A telephone conversation may not capture all the details of the alleged violations while the written submission is able to emphasize all the issues and concerns.

Informal complaints of alleged violations are primarily addressed through the FAA's review of written submissions. Therefore reports must:

1. Clearly state each alleged violation;
2. Identify the specific grant assurance(s) alleged to have been violated;
3. Provide a comprehensive, detailed description of the alleged violation, including the actions and/or inactions taken by the airport sponsor which result in the alleged violation;
4. Provide issue-by-issue supporting arguments, information and documentation; and
5. Include a summary of the actions you have taken to bring the perceived violation(s) to the attention of the airport sponsor and any efforts to resolve the issues directly with the airport sponsor.

Factually accurate supporting detail is essential for us to effectively evaluate each allegation and to establish a basis for determining the validity of each allegation. **Please be advised that information and documents provided to the FAA are not considered confidential and are subject to public release under the Freedom of Information Act.**



The FAA's local Airports District Office or Regional Airports Division investigates informal complaints. Allegations which do not fall within the scope of FAA jurisdiction or which lack sufficient clarity to permit evaluation will not be reviewed further. The remaining allegations will be investigated to determine whether further FAA action is warranted. The investigative process requires the FAA to contact the airport sponsor.

A list of [FAA Airports District and Regional Offices](#) is available.

There are no regulatory time frames associated with the Part 13.1 process. The FAA strives to investigate and conclude informal complaints within 120 days from receipt of the complaint. However, extenuating factors such as time required to obtain additional factual information, the complexity of the allegations, the need to coordinate with other offices within the FAA, and office workload requirements, etc. may preclude the investigating office from meeting this target deadline.

Upon completion of the investigation, a preliminary determination setting forth the Region's position on the allegations is sent to both the complainant and the airport sponsor. This preliminary determination is not a final agency decision subject to judicial review.

Formal Complaint Process

[FAA Rules of Practice for Federally-Assisted Airport Proceedings, 14 Code of Federal Regulations § 16](#) is the process available to substantially affected complainants seeking a final agency decision. The FAA's Office of Airport Compliance conducts FAA investigations under Part 16. These enforcement procedures were published in the Federal Register ([61 Fed. Reg. 53998, October 16, 1996](#)) and became effective on December 16, 1996.

In order to file a formal complaint under 14 CFR, Part 16, the complainant must be “directly and substantially affected” by any alleged noncompliance of a federally obligated airport. Prior to filing a complaint, the parties are required to initiate and engage in good faith efforts to resolve the disputed matter informally. A complaint will not be considered unless the person or authorized representative filing the complaint certifies that substantial and reasonable good faith efforts to resolve the issue have been made and that there is no prospect for a timely resolution.

Formal complaints are filed with the FAA Part 16 Airport Proceedings Docket in the Office of the Chief Counsel. Documents filed with the FAA must be typewritten or legibly printed. The mailing address should read:

FAA Part 16 Airport Proceedings Docket
AGC-610
Federal Aviation Administration
800 Independence Ave., SW
Washington, DC 20591

The complaint should:

1. State the name and address of each person who is the subject of the complaint and, with respect to each person, the specific provisions of each law, grant assurance, and/or surplus property agreement that the complainant believes were violated;
2. Provide a concise but complete statement of the facts relied upon to substantiate each allegation;
3. Describe how the complainant was directly and substantially affected by the things done or omitted to be done by the respondent(s); and
4. Provide a summary of the actions taken to bring the perceived violation(s) to the attention of the airport sponsor and any efforts to resolve the issues directly with the airport sponsor.

The original and three copies of each document should be filed with the FAA Part 16 Airport Proceedings Docket. The original should be signed by the person filing it or the person’s duly authorized representative.

A certificate of service should accompany all documents when they are filed. The certificate must certify concurrent service on the FAA and all parties named in the complaint as persons responsible for the alleged action(s) or omission(s) upon which the complaint is based.

The certificate of service should be in substantially the following form:

I hereby certify that I have this day served the foregoing [name of document] on the following persons at the following addresses and facsimile numbers (if also served by facsimile) by [specify method of service]:

[list person, addresses, facsimile numbers]

Dated this _____ day of _____, 20__.

[signature], for [party]

After a formal complaint is received, the FAA has 20 days to either docket or dismiss the complaint. Formal complaints are dismissed when the complainant lacks standing, does not follow the correct procedures to file the complaint, or fails to document good faith efforts to resolve the matter informally.

Once a formal complaint is docketed, the airport sponsor has 20 days to file its answer. The complainant may file its reply within 10 days of the date of service of the answer. The airport sponsor may file a rebuttal within 10 days of the date of service of the complainant's reply. The FAA has 120 days, from the date of the last pleading submitted, to conduct its investigation and issue a Director's Determination.

Any party adversely affected by the Director's Determination may appeal the initial determination to the Associate Administrator for Airports within 30 days after the date of service of the initial determination. The Associate Administrator will render a Final Agency Decision which may be appealed to the U.S. Court of Appeals.

Prior to filing a formal complaint, please review the [Frequently Asked Questions about Part 16](#).

The [Part 16 Decision Database](#) contains copies of all Director's Determinations and Final Agency Decisions issued. Oftentimes, complaints focus on similar issues, so understanding how the FAA has decided a case in the past may be helpful.



RESOURCES AND REFERENCES

Airport Compliance Program

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

FAA Order 5190.6B, Airport Compliance Manual

http://www.faa.gov/airports/resources/publications/orders/compliance_5190_6/

Sponsor Assurances

http://www.faa.gov/airports/aip/grant_assurances/media/airport_sponsor_assurances_2012.pdf

FAA's Policy Regarding Airport Rates and Charges

http://www.faa.gov/airports/airport_compliance/media/airports_rates_charges_policy_with_amendments.pdf

FAA's Policy and Procedures Concerning the Use of Airport Revenue

http://www.faa.gov/airports/resources/publications/federal_register_notices/media/obligation_final99.pdf

FAA's Advisory Circular on Exclusive Rights at Federally Obligated Airports

http://www.faa.gov/documentLibrary/media/advisory_circular/150-5190-6/150_5190_6.pdf

FAA's Advisory Circular on Minimum Standards for Commercial Aeronautical Activities

http://www.faa.gov/documentLibrary/media/advisory_circular/150-5190-7/150_5190_7.pdf

14 Code of Federal Regulations § 13.1

<http://www.gpo.gov/fdsys/pkg/CFR-2011-title14-vol1/xml/CFR-2011-title14-vol1-part13.xml#seqnum13.1>

14 Code of Federal Regulations § 16

<http://www.gpo.gov/fdsys/pkg/CFR-2011-title14-vol1/xml/CFR-2011-title14-vol1-part16.xml>

Frequently Asked Questions about Part 16

<http://part16.airports.faa.gov/index.cfm?page=FAQ>

Part 16 Decision Database

<http://part16.airports.faa.gov/index.cfm?page=CaseFileSearch>



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 Exclusive Rights and 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:

- 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
- g. Executive Order 13788 - Buy American and Hire American
- h. Executive Order 13858 – Strengthening Buy-American Preferences for Infrastructure Projects

FEDERAL REGULATIONS

- a. 2 CFR Part180 – OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement).
- 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 – Non-procurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures14 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 –Government-wide 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. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, 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. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, 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 non-aviation 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. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, 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.

Engineering and Design Services. If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., 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 in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U. S. C., 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 _____, 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 Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (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.

AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Mid-year Analysis of Gunnison County's Fiscal Stan

Action Requested: Discussion

Parties to the Agreement:

Term Begins:

Term Ends:

Grant Contract #:

Summary:

Discussion and walk-through of the Quarterly Fiscal Transparency Report - June 30, 2021. This is a new report that provides a comprehensive understanding of the County's major funds' budget vs actual status, major revenues, economic indicators, debt status, and capital project's progress to

Fiscal Impact:

Submitted by: Juan Guerra

Submitter's Email Address: jguerra@gunnisoncounty.org

Finance Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

County Attorney Review:

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

Certificate of Insurance Required

Yes No

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 8/20/2021

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 45

Agenda Date: 8/24/2021

August 17, 2021

Juan Guerra
Finance Director
Gunnison County
200 East Virginia Avenue
Gunnison, CO 81230

Dear Mr. Guerra:

We are pleased to inform you, based on the examination of your budget by a panel of independent reviewers, that your budget document has been awarded the Distinguished Budget Presentation Award from Government Finance Officers Association (GFOA) for the current fiscal period. This award is the highest form of recognition in governmental budgeting. Its attainment represents a significant achievement by your organization.

The Distinguished Budget Presentation Award is valid for one year. To continue your participation in the program, it will be necessary to submit your next annual budget document to GFOA within 90 days of the proposed budget's submission to the legislature or within 90 days of the budget's final adoption. Information about how to submit an application for the Distinguished Budget Program application is posted on GFOA's website.

Each program participant is provided with confidential comments and suggestions for possible improvements to the budget document. Your comments are enclosed. We urge you to carefully consider the suggestions offered by our reviewers as you prepare your next budget.

When a Distinguished Budget Presentation Award is granted to an entity, a Certificate of Recognition for Budget Presentation is also presented to the individual(s) or department designated as being primarily responsible for its having achieved the award. Enclosed is a Certificate of Recognition for Budget Preparation for:

In Memory of Linda Nienhueser

Continuing participants will receive a brass medallion that will be mailed separately. First-time recipients will receive an award plaque within eight to ten weeks. Enclosed is a camera-ready reproduction of the award for inclusion in your next budget. If you reproduce the camera-ready image in your next budget, it should be accompanied by a statement indicating continued compliance with program criteria. The following standardized text should be used:

Government Finance Officers Association of the United States and Canada (GFOA) presented a Distinguished Budget Presentation Award to **Gunnison County, Colorado**, for its Annual Budget for the fiscal year beginning **January 01, 2021**. In order to receive this award, a governmental unit must publish a budget document that meets program criteria as a policy document, as a financial plan, as an operations guide, and as a communications device.

This award is valid for a period of one year only. We believe our current budget continues to conform to program requirements, and we are submitting it to GFOA to determine its eligibility for another award.

A press release is enclosed.

Upon request, GFOA can provide a video from its Executive Director congratulating your specific entity for winning the Budget Award.

We appreciate your participation in this program, and we sincerely hope that your example will encourage others in their efforts to achieve and maintain excellence in governmental budgeting. The most current list of award recipients can be found on GFOA's website at www.gfoa.org. If we can be of further assistance, please contact the Technical Services Center at (312) 977-9700.

Sincerely,

A handwritten signature in black ink that reads "Michele Mark Levine". The signature is written in a cursive, flowing style.

Michele Mark Levine
Director, Technical Services Center

Enclosure

FOR IMMEDIATE RELEASE

August 17, 2021

For more information, contact:

Technical Services Center

Phone: (312) 977-9700

Fax: (312) 977-4806

E-mail: budgetawards@gfoa.org

(Chicago, Illinois)--Government Finance Officers Association is pleased to announce that **Gunnison County, Colorado**, has received GFOA's Distinguished Budget Presentation Award for its budget.

The award represents a significant achievement by the entity. It reflects the commitment of the governing body and staff to meeting the highest principles of governmental budgeting. In order to receive the budget award, the entity had to satisfy nationally recognized guidelines for effective budget presentation. These guidelines are designed to assess how well an entity's budget serves as:

- a policy document
- a financial plan
- an operations guide
- a communications device

Budget documents must be rated "proficient" in all four categories, and in the fourteen mandatory criteria within those categories, to receive the award.

When a Distinguished Budget Presentation Award is granted to an entity, a Certificate of Recognition for Budget Presentation is also presented to the individual(s) or department designated as being primarily responsible for having achieved the award. This has been presented to **In Memory of Linda Nienhueser**.

There are over 1,700 participants in the Budget Awards Program. The most recent Budget Award recipients, along with their corresponding budget documents, are posted quarterly on GFOA's website. Award recipients have pioneered efforts to improve the quality of budgeting and provide an excellent example for other governments throughout North America.

Government Finance Officers Association (GFOA) advances excellence in government finance by providing best practices, professional development, resources and practical research for more than 21,000 members and the communities they serve.



GOVERNMENT FINANCE OFFICERS ASSOCIATION

*Distinguished
Budget Presentation
Award*

PRESENTED TO

**Gunnison County
Colorado**

For the Fiscal Year Beginning

January 01, 2021

Christopher P. Morill

Executive Director



**The Government Finance Officers Association
of the United States and Canada**

presents this

CERTIFICATE OF RECOGNITION FOR BUDGET PREPARATION

to

**In Memory of Linda Nienhueser
Gunnison County, Colorado**



The Certificate of Recognition for Budget Preparation is presented by the Government Finance Officers Association to those individuals who have been instrumental in their government unit achieving a Distinguished Budget Presentation Award. The Distinguished Budget Presentation Award, which is the highest award in governmental budgeting, is presented to those government units whose budgets are judged to adhere to program standards

Executive Director

Christopher P. Morill

Date: **August 17, 2021**



Quarterly Fiscal Transparency Report

as of June 30, 2021

Reliable, timely, relevant, & transparent



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Gunnison County, Colorado
General Fund
UNAUDITED Schedule of Revenues, Expenditures and Changes in Fund Balances - Budget vs Actual
For the QUARTER Ended June 30, 2021

4

	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual</u>	<u>% of Budget</u>	<u>Final Budget Variance Positive (Negative)</u>	<u>Actual - December 31,</u>	
						<u>2020</u>	<u>2019</u>
Taxes:							
General property taxes	\$ 9,563,400	\$ 9,563,400	\$ 9,828,298	103%	\$ 264,898	\$ 9,687,834	\$ 9,089,841
Specific ownership tax	410,000	410,000	255,826	62%	(154,174)	466,597	504,108
Delinquent tax and interest	25,500	25,500	1,034	4%	(24,466)	32,865	20,135
Total Taxes	<u>9,998,900</u>	<u>9,998,900</u>	<u>10,085,158</u>	101%	86,258	<u>10,187,296</u>	<u>9,614,084</u>
Licenses and Permits:							
Liquor licenses	4,700	4,700	2,800	60%	(1,900)	5,100	5,775
Building permits	300,000	300,000	263,793	88%	(36,207)	339,171	385,596
Other licenses and permits	268,195	268,195	230,834	86%	(37,361)	314,850	381,624
Total Licenses and Permits	<u>572,895</u>	<u>572,895</u>	<u>497,427</u>	87%	(75,468)	<u>659,121</u>	<u>772,995</u>
Intergovernmental:							
Federal Grants	201,856	201,856	18,019	9%	(183,837)	1,670,260	375,197
State Grants	1,091,685	1,100,179	198,913	18%	(901,266)	1,673,289	1,602,844
Local Grants	370,603	487,913	175,921	36%	(311,992)	117,065	83,559
Total Intergovernmental	<u>1,664,144</u>	<u>1,789,948</u>	<u>392,853</u>	22%	(1,397,095)	<u>3,460,614</u>	<u>2,061,600</u>
Charges for Services:							
Clerk and recorder	456,000	456,000	314,948	69%	(141,052)	536,535	437,899
Sheriff's fees	65,000	65,000	50,876	78%	(14,124)	58,583	84,674
Treasurer's fees	890,000	890,000	876,265	98%	(13,735)	1,020,295	882,081
Assessor's Fees	8,000	8,000	5,870	73%	(2,130)	317,447	175,269
Public Health Fees	15,158	15,158	4,226	28%	(10,932)	6,925	6,698
Land Use Fees	300	300	563	188%	263	10,293	14,857
Useful Public Service	35,000	35,000	10,985	31%	(24,015)	50	955
Court Fines & Fees	83,353	83,353	28,752	34%	(54,601)	20,880	35,005
Other Fees	130,817	130,817	77,637	59%	(53,180)	45,759	88,168
Total Charges for Services	<u>1,683,628</u>	<u>1,683,628</u>	<u>1,370,122</u>	81%	(313,506)	<u>2,016,767</u>	<u>1,725,606</u>
Other Revenue:							
Investment income	203,040	203,040	(11,074)	-5%	(214,114)	287,734	344,271
Contributions	23,250	26,250	548	2%	(25,702)	261,463	85,427
Miscellaneous	381,861	384,115	91,972	24%	(292,143)	235,159	323,177
Transfer In	1,146,378	1,146,378	395,318	34%	(751,060)	839,968	957,983
Total Other Revenue	<u>1,754,529</u>	<u>1,759,783</u>	<u>476,764</u>	27%	(1,283,019)	<u>1,624,324</u>	<u>1,710,858</u>
Total Revenues	<u>\$ 15,674,096</u>	<u>\$ 15,805,154</u>	<u>\$ 12,822,324</u>	81%	<u>\$ (2,982,830)</u>	<u>\$ 17,948,122</u>	<u>\$ 15,885,143</u>
General Government:							
Commissioners	\$ 589,902	\$ 589,902	\$ 266,036	45%	\$ 323,866	\$ 450,430	\$ 517,336
Board Support	77,986	77,986	33,229	43%	44,757	73,747	66,076
Executive Management	490,707	490,707	202,421	41%	288,286	402,732	433,331
Public Information	63,753	63,753	26,876	42%	36,877	43,364	63,662
Clerk	59,843	59,873	32,011	53%	27,862	58,512	66,950
Motor Vehicle	324,849	324,849	165,823	51%	159,026	320,578	263,983
Recording	120,517	120,517	66,752	55%	53,765	119,914	213,634
Elections	261,657	261,657	109,406	42%	152,251	436,832	212,518
Revenue (Treasurer)	271,531	271,531	147,691	54%	123,840	244,709	240,508
Investments (Treasurer)	16,638	16,638	7,289	44%	9,349	14,549	16,984
Human Resources	175,351	197,733	66,760	34%	130,973	147,076	169,869
Wildlife Conservation	42,722	42,722	18,105	42%	24,617	35,818	54,906
Liquor License	10,106	10,106	4,926	49%	5,180	9,808	651,755
County Attorney	670,926	720,312	384,348	53%	335,964	759,212	10,074
Facilities & Grounds	1,015,005	1,015,005	448,197	44%	566,808	822,814	895,460
Project Services	82,307	82,307	34,305	42%	48,002	71,102	74,917
Property Records	334,700	334,700	112,297	34%	222,403	372,318	330,890
Valuation	729,019	729,019	277,979	38%	451,040	609,527	633,664
Communication	-	-	104,204	#DIV/0!	(104,204)	-	-
Administration	-	-	43,169	#DIV/0!	(43,169)	-	-
Development Review	634,544	634,544	296,514	47%	338,030	584,161	556,750
Oil and Gas Permitting	9,796	9,796	4,121	42%	5,675	8,740	7,049
Long Range Planning and Projects	305,926	305,926	204,537	67%	101,389	254,538	227,630

Gunnison County, Colorado
General Fund
UNAUDITED Schedule of Revenues, Expenditures and Changes in Fund Balances - Budget vs Actual
For the QUARTER Ended June 30, 2021 - Continued

	Original Budget	Final Budget	Actual	% of Budget	Final Budget Variance Positive (Negative)	Actual - December 31, 2020	2019
Codes & Regulations	50,863	50,863	25,611	50%	25,252	49,555	50,445
Accounting & Auditing	510,544	545,001	285,796	52%	259,205	449,599	443,935
Planning and Analysis	126,520	128,720	57,996	45%	70,724	102,249	100,832
Compensated Absences	17,750	119,017	118,935	100%	82	-	82,162
Weather Modification	10,000	10,000	10,000	100%	-	10,000	10,000
Other General Fund Expenditures	1,949,223	1,949,223	518,167	27%	1,431,056	1,614,075	1,462,478
Energy Efficiency Initiatives	22,510	22,510	600	3%	21,910	6,810	2,685
Total General Government	8,975,195	9,184,917	4,074,101	44%	5,110,816	8,072,769	7,860,483
Judicial:							
District Attorney	425,703	425,703	321,235	75%	104,468	425,685	379,279
Total Judicial	425,703	425,703	321,235	75%	104,468	425,685	379,279
Public Safety:							
Detention Services	1,069,993	1,069,993	458,350	43%	611,643	919,057	943,125
Enforcement	837,855	837,855	357,272	43%	480,583	622,751	609,421
Operational Support	1,323,912	1,333,912	690,924	52%	642,988	1,065,304	992,962
Courtroom Security	97,320	97,320	47,374	49%	49,946	88,418	114,856
Investigations	215,229	215,229	69,496	32%	145,733	148,815	167,654
Major Incident Response	53,143	53,143	15,393	29%	37,750	48,715	21,794
Operational Support - Detention	218,114	218,114	99,483	46%	118,631	213,607	191,424
Education and Support	166,479	168,830	61,682	37%	107,148	152,555	9,098
Emergency Management	689,008	818,262	95,819	12%	722,443	1,556,169	212,430
Coroner	153,154	153,154	74,690	49%	78,464	151,174	154,320
Youth Intervention Services	219,191	219,191	100,599	46%	118,592	155,680	152,896
Total Public Safety	5,043,398	5,185,003	2,071,082	40%	3,113,921	5,122,245	3,569,980
Health and Welfare:							
Substance Abuse Prevention	166,500	166,500	77,036	46%	89,464	240,690	268,865
Program Support	45,083	45,083	14,410	32%	30,673	38,584	38,924
Senior Resources	204,362	209,362	73,072	35%	136,290	216,795	215,351
Child & Family Health	267,403	316,806	134,050	42%	182,756	198,175	246,798
Family Planning	113,300	113,300	45,625	40%	67,675	117,632	185,644
Total Health and Welfare	796,648	851,051	344,193	40%	506,858	811,876	955,582
Auxiliary Services:							
Alternative Services	75,189	75,189	36,355	48%	38,834	70,144	70,659
Adult Programming	74,204	74,204	33,251	45%	40,953	54,764	67,564
Youth Development	163,777	163,777	75,676	46%	88,101	127,283	147,962
Veterans	14,700	14,700	5,458	37%	9,242	12,305	12,523
Total Auxiliary Services	327,870	327,870	150,740	46%	177,130	264,496	298,708
Culture and Recreation:							
Fairgrounds Management	260,946	260,946	137,077	53%	123,869	230,171	295,701
Trails - Parks	284,998	284,998	60,028	21%	224,970	85,482	33,572
Landfill	2,275	2,275	133	6%	2,142	395	1,990
Historic Preservation	2,540	2,540	1,076	42%	1,464	8,326	7,212
Total Culture and Recreation	550,759	550,759	198,314	36%	352,445	324,374	338,475
Public Works:							
Weed Management	235,063	235,063	92,738	39%	142,325	242,194	226,618
Total Public Works	235,063	235,063	92,738	39%	142,325	242,194	226,618
Debt Service:							
Principal	5,006	5,006	21,989	439%	(16,983)	17,332	17,629
Interest	700	700	700	100%	-	297	-
Total Debt Service	5,706	5,706	22,689	398%	(16,983)	17,629	17,629
Other							
Transfer Out	630,100	630,100	204,851	33%	425,249	235,384	2,194,185
Other	-	-	-	#DIV/0!	-	-	-
Total Other	630,100	630,100	204,851	33%	425,249	235,384	2,194,185
Total Expenditures	\$ 16,990,442	\$ 17,396,172	7,479,943	43%	9,916,229	15,516,652	15,840,939
Net Change in Fund Balances	(1,316,346)	(1,591,018)	5,342,381		6,933,399	2,431,470	44,204
Fund Balances - Beginning of Year			8,639,786			6,208,316	6,164,112
Fund Balances - End of Period			\$ 13,982,167			\$ 8,639,786	\$ 6,208,316

Gunnison County, Colorado
Road and Bridge Fund
UNAUDITED Schedule of Revenues, Expenditures and Changes in Fund Balances
Budget vs Actual
For the QUARTER Ended June 30, 2021

	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual</u>	<u>% of Budget</u>	<u>Final Budget Variance Positive (Negative)</u>	<u>Actual - December 31, 2020</u>	<u>2019</u>
Revenues:							
Specific ownership tax	\$ 200,000	\$ 200,000	\$ 137,753	69%	\$ (62,247)	\$ 235,343	\$ 271,449
Charges for Services:							
Municipalities	140,416	140,416	58,438	42%	(81,978)	60,063	98,319
Permits	13,400	13,400	18,254	136%	4,854	36,180	41,816
Other	620	620	-	0%	(620)	15,903	15
Intergovernmental:							
Payment in lieu of taxes	1,000,000	1,000,000	1,451,587	145%	451,587	1,341,378	1,340,468
Local grants	1,000	1,000	-	0%	(1,000)	6,032	10,487
Federal grants	2,100	2,100	-	0%	(2,100)	-	94,463
State grants	50,000	50,000	25,198	50%	(24,802)	54,755	53,556
Highway users trust fund	3,050,000	3,050,000	1,085,682	36%	(1,964,318)	2,661,570	3,533,555
Mineral leasing	350,000	350,000	-	0%	(350,000)	408,959	486,494
Other:							
Fines and forfeitures	110	110	-	0%	(110)	24	-
Investment income	35,000	35,000	(1,441)	-4%	(36,441)	60,077	72,941
Miscellaneous	40,048	40,048	97,067	242%	57,019	58,877	92,263
Transfers in	157,158	157,158	41,079	26%	(116,079)	83,676	64,824
Total Revenues	<u>5,039,852</u>	<u>5,039,852</u>	<u>2,913,617</u>	58%	<u>(2,126,235)</u>	<u>5,022,837</u>	<u>6,160,650</u>
Expenditures:							
Road construction	111,718	111,718	528,184	473%	(416,466)	523,390	440,252
Bridges	80,999	80,999	505	1%	80,494	21,200	103,566
Winter maintenance	1,442,744	1,442,744	610,060	42%	832,684	1,091,688	1,317,643
Operational support	592,225	592,225	231,879	39%	360,346	491,608	431,563
Trails and park	22,577	22,577	2,973	13%	19,604	11,310	7,744
Municipalities	175,103	175,103	72,395	41%	102,708	103,649	124,480
Road maintenance	3,011,852	3,111,852	1,363,999	44%	1,747,853	3,009,204	2,551,238
Capital outlay	-	-	-	#DIV/0!	-	-	40,301
Debt Service	-	-	-	#DIV/0!	-	128	128
Transfer out	332,185	332,185	89,369	27%	242,816	208,304	296,636
Total Expenditures	<u>5,769,403</u>	<u>5,869,403</u>	<u>2,899,364</u>	49%	<u>2,970,039</u>	<u>5,460,481</u>	<u>5,313,551</u>
Net Change in Fund Balances	\$ <u>(729,551)</u>	\$ <u>(829,551)</u>	14,253		\$ <u>843,804</u>	(437,644)	\$ 847,099
Fund Balances - Beginning of Year			2,634,144			3,071,788	2,224,689
Fund Balances - End of Year			\$ <u>2,648,397</u>			<u>2,634,144</u>	<u>3,071,788</u>

Gunnison County, Colorado
Human Services Fund
UNAUDITED Schedule of Revenues, Expenditures and Changes in Fund Balances
Budget vs Actual
For the QUARTER Ended June 30, 2021

	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual</u>	<u>% of Budget</u>	<u>Final Budget Variance Positive (Negative)</u>	<u>Actual - December 31, 2020</u>	<u>2019</u>
Revenues:							
Taxes:							
Property tax revenue	\$ 332,000	\$ 332,000	\$ 340,452	103%	\$ 8,452	\$ 334,821	\$ 314,546
Delinquent tax and interest	1,100	1,100	37	3%	(1,063)	1,139	700
Intergovernmental:							
EBT reimbursements	4,421,844	4,421,844	2,575,842	58%	(1,846,002)	5,057,528	3,877,210
Other	60,000	60,000	12,953	22%	(47,047)	51,466	60,142
Other:							
Investment income	8,000	8,000	(17)	0%	(8,017)	6,979	12,841
Contributions	1,250	1,250	1,111	89%	(139)	1,822	7,598
Miscellaneous	11,900	11,900	162	1%	(11,738)	12,442	2,717
Total Revenues	<u>4,836,094</u>	<u>4,836,094</u>	<u>2,930,540</u>	61%	<u>(1,905,554)</u>	<u>5,466,197</u>	<u>4,275,754</u>
Expenditures:							
Youth and family prevention services	106,465	106,465	37,635	35%	68,830	80,899	123,960
Self-sufficiency development	518,932	518,932	283,567	55%	235,365	666,148	576,424
Program support	655,472	655,472	309,788	47%	345,684	499,495	531,191
Children and family services	1,065,555	1,065,555	515,718	48%	549,837	1,005,269	1,100,360
Child support enforcement	108,573	108,573	58,571	54%	50,002	100,842	92,119
Public assistance	2,275,262	2,275,262	1,673,863	74%	601,399	2,889,791	1,712,957
Transfer out	136,000	136,000	54,789	40%	(81,211)	139,558	119,680
Total Expenditures	<u>4,866,259</u>	<u>4,866,259</u>	<u>2,933,931</u>	60%	<u>1,769,906</u>	<u>5,382,002</u>	<u>4,256,691</u>
Net Change in Fund Balances	\$ <u>(30,165)</u>	\$ <u>(30,165)</u>	(3,391)		\$ <u>(135,648)</u>	84,195	19,063
Fund Balances - Beginning of Year			<u>285,587</u>			<u>201,392</u>	<u>182,329</u>
Fund Balances - End of Year			\$ <u>282,196</u>			\$ <u>285,587</u>	\$ <u>201,392</u>

Gunnison County, Colorado
Airport Operations Fund
UNAUDITED Schedule of Revenues, Expenses and Changes in Net Position
Budget vs Actual
For the QUARTER Ended June 30, 2021

	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual</u>	<u>% of Budget</u>	<u>Final Budget Variance Positive (Negative)</u>	<u>Actual - December 31, 2020</u>	<u>2019</u>
Revenues:							
Airport fees	\$ 514,034	\$ 514,034	\$ 240,322	47%	\$ (273,712)	\$ 428,505	\$ 582,081
Terminal & hanger rent	456,002	456,002	262,543	58%	(193,459)	251,981	458,376
Passenger Facility Charges	125,000	125,000	46,635	37%	(78,365)	106,768	99,017
Parking fees & fines	67,634	67,634	51,592	76%	(16,042)	85,594	-
Other	271,571	271,571	696,432	256%	424,861	296,563	402,126
Grant revenue:							
Federal	1,530,131	1,530,131	512,420	33%	(1,017,711)	2,036,352	1,030,469
State	57,000	57,000	18,424	32%	(38,576)	63,809	91,769
Other	30,000	30,000	-	0%	(30,000)	30,000	-
Transfers in	-	-	-	#DIV/0!	-	416,536	-
Investment revenue	21,000	21,000	(741)	-4%	(21,741)	45,583	48,678
Total Revenues	<u>3,072,372</u>	<u>3,072,372</u>	<u>1,827,627</u>	59%	<u>(1,244,745)</u>	<u>3,761,691</u>	<u>2,712,516</u>
Expenditures:							
Operational support	251,493	251,493	148,193	59%	103,300	275,591	222,473
Strategic development	102,557	102,557	57,314	56%	45,243	99,333	87,173
Airside	746,192	746,192	343,049	46%	403,143	656,822	788,775
Landside	279,830	279,830	148,543	53%	131,287	207,299	229,328
Capital Outlay	118,000	118,000	860,675	729%	(742,675)	1,186,238	1,039,200
Debt Service:	4,081	162,437	88,602	55%	(73,835)	4,081	-
Transfers out	1,403,779	1,403,779	39,041	3%	1,364,738	71,172	126,363
Total Expenses	<u>2,905,932</u>	<u>3,064,288</u>	<u>1,685,417</u>	55%	<u>1,231,201</u>	<u>2,500,536</u>	<u>2,493,312</u>
Change in Net Position - Budget Basis	<u>\$ 166,440</u>	<u>\$ 8,084</u>	142,210		<u>\$ (13,544)</u>	1,261,155	219,204
Reconciliation from Budget Basis to GAAP:							
Depreciation			-			(2,223,933)	(2,184,784)
Capital outlay			-			1,186,238	1,030,469
Net operating gain/(loss)			142,210			223,460	(935,111)
Net Position - Beginning of Year			35,148,215			34,924,755	35,859,866
Net Position - End of Year			<u>\$ 35,290,425</u>			<u>\$ 35,148,215</u>	<u>\$ 34,924,755</u>

Gunnison County, Colorado
Sewer Fund
UNAUDITED Schedule of Revenues, Expenses and Changes in Net Position
Budget vs Actual
For the QUARTER Ended June 30, 2021

	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual</u>	<u>% of Budget</u>	<u>Final Budget Variance Positive (Negative)</u>	<u>Actual - December 31,</u>	
						<u>2020</u>	<u>2019</u>
Revenues:							
Dos Rios Division:							
Tap fees	\$ 5,500	\$ 5,500	\$ 11,000	200%	\$ 5,500	\$ 5,500	\$ 11,000
User fees	259,150	259,150	193,623	75%	(65,527)	257,498	265,575
Late fees	1,000	1,000	-	0%	(1,000)	399	1,843
Other revenue	23,810	23,810	5,057	21%	(18,753)	38,179	29,597
Total Dos Rios Division	<u>289,460</u>	<u>289,460</u>	<u>209,680</u>	72%	<u>(79,780)</u>	<u>301,576</u>	<u>308,015</u>
Somerset Division:							
User fees	20,290	20,290	15,208	75%	(5,082)	20,287	20,728
Late fees	80	80	-	0%	(80)	73	271
Other revenue	775	775	529	68%	(246)	724	2,011
Total Somerset Division	<u>21,145</u>	<u>21,145</u>	<u>15,737</u>	74%	<u>(5,408)</u>	<u>21,084</u>	<u>23,010</u>
Antelope Hills Division:							
Tap fees	5,500	5,500	-	0%	(5,500)	-	-
User fees	56,930	56,930	42,694	75%	(14,236)	56,925	52,560
Late fees	400	400	-	0%	(400)	238	941
Other revenue	1,660	1,660	866	52%	(794)	1,874	12,828
Total Antelope Hills Division	<u>64,490</u>	<u>64,490</u>	<u>43,560</u>	68%	<u>(20,930)</u>	<u>59,037</u>	<u>66,329</u>
North Gunnison Division:							
Tap fees	12,000	12,000	15,000	125%	3,000	23,500	16,500
User fees	316,370	316,370	245,590	78%	(70,780)	321,995	353,397
Late fees	1,000	1,000	-	0%	(1,000)	691	1,883
Other revenue	58,100	58,100	39,466	68%	(18,634)	58,403	4,778
Total North Gunnison Division	<u>387,470</u>	<u>387,470</u>	<u>300,056</u>	77%	<u>(87,414)</u>	<u>404,589</u>	<u>376,558</u>
Tomichi Division:							
User fees	20,961	20,961	2,936	14%	(18,025)	12,847	17,070
Other revenue	-	-	-	#DIV/0!	-	-	4,760
Total Tomichi Division	<u>20,961</u>	<u>20,961</u>	<u>2,936</u>	14%	<u>(18,025)</u>	<u>12,847</u>	<u>21,830</u>
Total Revenues	<u>783,526</u>	<u>783,526</u>	<u>571,969</u>	73%	<u>(211,557)</u>	<u>799,133</u>	<u>795,742</u>
Expenses:							
Dos Rios Division:							
Operations	270,322	270,322	129,853	48%	140,469	189,275	216,825
Transfers to other funds	25,910	25,910	15,114	58%	10,796	24,349	27,695
Capital outlay	40,000	40,000	-	0%	40,000	4,902	7,500
Debt service	-	-	-	#DIV/0!	-	-	-
Total Dos Rios Division	<u>336,232</u>	<u>336,232</u>	<u>144,967</u>	43%	<u>191,265</u>	<u>218,526</u>	<u>252,020</u>

Somerset Division:								
Operations	20,354	20,354	4,131	20%	16,223	14,858	-	
Transfers to other funds	831	831	485	58%	346	705	-	
Capital outlay	-	-	-	#DIV/0!	-	-	-	
Debt service	-	-	-	#DIV/0!	-	-	-	
Total Somerset Division	<u>21,185</u>	<u>21,185</u>	<u>4,616</u>	22%	<u>16,569</u>	<u>15,563</u>	<u>-</u>	
Antelope Hills Division:								
Operations	64,658	64,658	18,290	28%	46,368	51,754	49,823	
Transfers to other funds	4,674	4,674	2,727	58%	1,947	5,256	6,930	
Capital outlay	1,000	1,000	-	0%	1,000	-	-	
Debt service	-	-	-	#DIV/0!	-	-	-	
Total Antelope Hills Division	<u>70,332</u>	<u>70,332</u>	<u>21,017</u>	30%	<u>49,315</u>	<u>57,010</u>	<u>56,753</u>	
North Gunnison Division:								
Operations	286,677	286,677	147,756	52%	138,921	233,534	225,527	
Transfers to other funds	14,567	14,567	8,497	58%	6,070	13,861	15,806	
Capital outlay	1,000	1,000	-	0%	1,000	-	-	
Debt service	39,659	96,154	48,077	50%	48,077	112,910	114,160	
Total North Gunnison Division	<u>341,903</u>	<u>398,398</u>	<u>204,330</u>	51%	<u>194,068</u>	<u>360,305</u>	<u>355,493</u>	
Tomichi Division:								
Operations	18,788	18,788	9,285	49%	9,503	12,143	16,257	
Transfers to other funds	856	856	499	58%	357	705	813	
Capital outlay	-	-	-	#DIV/0!	-	-	-	
Debt service	-	-	-	#DIV/0!	-	-	-	
Total Tomichi Division	<u>19,644</u>	<u>19,644</u>	<u>9,784</u>	50%	<u>9,860</u>	<u>12,848</u>	<u>17,070</u>	
Total Expenses	<u>789,296</u>	<u>845,791</u>	<u>384,714</u>	45%	<u>461,077</u>	<u>664,252</u>	<u>681,336</u>	
Change in Net Position - Budget Basis	\$ <u>(5,770)</u>	\$ <u>(62,265)</u>	187,255		\$ <u>249,520</u>	134,881	114,406	
Reconciliation from Budget Basis to GAAP:								
Debt principle			-			33,596	51,017	
Depreciation			-			(236,980)	(236,195)	
Capital outlay			-			6,128	7,500	
Net operating gain/(loss)			<u>187,255</u>			<u>(62,375)</u>	<u>(63,272)</u>	
Net Position - Beginning of Year			2,882,224			2,944,599	3,007,871	
Net Position - End of Year			\$ <u>3,069,479</u>			\$ <u>2,882,224</u>	\$ <u>2,944,599</u>	

Gunnison County, Colorado
Water Fund
UNAUDITED Schedule of Revenues, Expenses and Changes in Net Position
Budget vs Actual
For the QUARTER Ended June 30, 2021

	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual</u>	<u>% of Budget</u>	<u>Final Budget Variance Positive (Negative)</u>	<u>Actual - December 31, 2020</u>	<u>2019</u>
Revenues:							
User fees	\$ 343,920	\$ 343,920	\$ 257,456	75%	\$ (86,464)	\$ 382,292	\$ 333,505
Availability fees	7,650	7,650	5,008	65%	(2,642)	7,079	6,916
Tap Connection	5,500	5,500	3,000	55%	(2,500)	-	8,500
Other	37,747	37,747	-	0%	(37,747)	3,147	81,826
Earnings on investments	1,600	1,600	(288)	-18%	(1,888)	13,655	14,971
Grant revenue	-	-	3,345	#DIV/0!	3,345	18,570	-
Transfers in	29,330	29,330	17,109	58%	(12,221)	29,181	28,024
Total Revenues	<u>425,747</u>	<u>425,747</u>	<u>285,630</u>	67%	<u>(140,117)</u>	<u>453,924</u>	<u>473,742</u>
Expenses:							
Dos Rios Division:							
Operating expenses	174,335	174,335	175,642	101%	(1,307)	188,610	147,772
Transfers to other funds	16,260	16,260	9,485	58%	6,775	-	-
Capital outlay	30,000	30,000	-	0%	30,000	-	-
Somerset Division:							
Debt service	8,024	8,024	-	0%	8,024	7,836	1,589
Antelope Hills Division:							
Operating expenses	52,138	52,138	13,456	26%	38,682	12,945	96,557
Transfers to other funds	336	336	196	58%	140	-	-
Debt service	42,940	42,940	21,470	50%	21,470	42,818	49,204
Utilities Administration:							
Operating expenses	81,320	81,320	57,064	70%	24,256	83,720	78,855
Capital outlay	1,000	1,000	-	0%	1,000	-	-
Debt service	154	154	-	0%	154	-	-
Total Expenses	<u>406,507</u>	<u>406,507</u>	<u>277,313</u>	68%	<u>129,194</u>	<u>350,449</u>	<u>397,677</u>
Change in Net Position - Budget Basis	\$ <u>19,240</u>	\$ <u>19,240</u>	8,317		\$ <u>(10,923)</u>	103,475	76,065
Reconciliation from Budget Basis to GAAP:							
Debt principle			-			27,870	27,155
Depreciation			-			(130,022)	(222,741)
Capital outlay			-			-	-
Net operating gain/(loss)			<u>8,317</u>			<u>1,323</u>	<u>(119,521)</u>
Net Position - Beginning of Year			1,957,529			1,956,206	2,075,727
Net Position - End of Year			<u>\$ 1,965,846</u>			<u>\$ 1,957,529</u>	<u>\$ 1,956,206</u>

Gunnison County, Colorado
Solid Waste Fund
UNAUDITED Schedule of Revenues, Expenses and Changes in Net Position
Budget vs Actual
For the QUARTER Ended June 30, 2021

	Original Budget	Final Budget	Actual	% of Budget	Final Budget Variance Positive (Negative)	Actual - December 31, 2020	2019
Revenues:							
Landfill:							
Disposal fees	\$ 1,034,220	\$ 1,034,220	\$ 517,973	50%	\$ (516,247)	\$ 1,057,750	\$ 1,059,252
Other	29,350	29,350	18,543	63%	(10,807)	33,868	27,784
Total Landfill Revenues	<u>1,063,570</u>	<u>1,063,570</u>	<u>536,516</u>	50%	<u>(527,054)</u>	<u>1,091,618</u>	<u>1,087,036</u>
Recycling:							
Grants	-	-	41,942		-	-	-
Recycled material sales	60,000	60,000	43,196	72%	(16,804)	102,191	94,137
Total Recycling Revenues	<u>60,000</u>	<u>60,000</u>	<u>85,138</u>	142%	<u>(16,804)</u>	<u>102,191</u>	<u>94,137</u>
Other:							
Transfers in	-	-	-	#DIV/0!	-	25,450	-
Investment revenue	37,000	37,000	919	2%	(36,081)	34,640	47,183
Total Revenues	<u><u>1,160,570</u></u>	<u><u>1,160,570</u></u>	<u><u>622,573</u></u>	54%	<u><u>(579,939)</u></u>	<u><u>1,253,899</u></u>	<u><u>1,228,356</u></u>
Expenses:							
Landfill Expenditures:							
Operations and maintenance	650,648	650,648	306,296	47%	344,352	553,041	591,201
Transfers to other funds	52,464	52,464	30,604	58%	21,860	-	-
Debt service	158,707	158,707	14,272	9%	144,435	-	-
Capital outlay	13,765	13,765	-	0%	13,765	39,437	-
Total Landfill Expenditures	<u>875,584</u>	<u>875,584</u>	<u>351,172</u>	40%	<u>524,412</u>	<u>592,478</u>	<u>591,201</u>
Recycling Expenditures:							
Operations	371,802	371,802	203,622	55%	168,180	326,185	318,705
Transfers to other funds	25,848	25,848	15,078		-	-	-
Total Recycling Expenditures	<u>397,650</u>	<u>397,650</u>	<u>218,700</u>	55%	<u>168,180</u>	<u>326,185</u>	<u>318,705</u>
Other:							
Transfers (out)	-	-	-	#DIV/0!	-	73,392	71,328
Interest expense	-	-	-	#DIV/0!	-	10,698	-
Total Expenses	<u><u>1,273,234</u></u>	<u><u>1,273,234</u></u>	<u><u>569,872</u></u>	45%	<u><u>692,592</u></u>	<u><u>1,002,753</u></u>	<u><u>981,234</u></u>
Change in Net Position - Budget Basis	<u><u>(112,664)</u></u>	<u><u>(112,664)</u></u>	<u>52,701</u>		<u><u>112,653</u></u>	<u>251,146</u>	<u>247,122</u>
Reconciliation to GAAP Basis							
Debt principle			-			21,998	-
Depreciation			-			(46,088)	(47,832)
Capitalized assets			-			39,437	-
Landfill closure/post-closure (cost)/recovery			-			(42,989)	(40,168)
Change in net position - GAAP basis			<u>52,701</u>			<u>223,504</u>	<u>159,122</u>
Net Position - Beginning of Year			1,010,965			982,464	823,342
Prior period adjustment			-			(195,003)	-
Net Position - End of Year			<u>\$ 1,063,666</u>			<u>\$ 1,010,965</u>	<u>\$ 982,464</u>

Gunnison County, Colorado
Internal Service Fund III - Health Insurance
UNAUDITED Schedule of Revenues, Expenses and Changes in Net Position
Budget vs Actual
For the QUARTER Ended June 30, 2021

	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual</u>	<u>% of Budget</u>	<u>Final Budget Variance Positive (Negative)</u>	<u>Actual - December 31,</u>	
						<u>2020</u>	<u>2019</u>
Revenues:							
Contributions:							
Medical	\$ 346,000	\$ 346,000	\$ 162,141	47%	\$ (183,859)	\$ 325,225	\$ 346,315
Medical	1,730,000	1,730,000	871,031	50%	(858,969)	1,537,916	1,615,955
Dental	152,000	152,000	77,290	51%	(74,710)	148,693	152,191
Other	80,900	80,900	47,098	58%	(33,802)	78,466	80,252
Prescriptions	240,000	240,000	-	0%	(240,000)	168,134	127,483
COBRA	11,150	11,150	4,476	40%	(6,674)	5,859	17,382
Insurance proceeds	1,000	1,000	7,913	791%	6,913	385,679	432,557
Refunds	7,120	7,120	14,000	197%	6,880	15,663	409
Rebates	10,000	10,000	-	0%	(10,000)	6,861	33,172
Investment revenue	40,000	40,000	(504)	-1%	(40,504)	44,417	64,967
Total Revenues	<u>2,618,170</u>	<u>2,618,170</u>	<u>1,183,445</u>	45%	<u>(1,434,725)</u>	<u>2,716,913</u>	<u>2,870,683</u>
Expenses:							
Personnel	15,179	17,505	9,800	56%	7,705	15,258	13,900
Contracted services	150,000	150,000	110,929	74%	39,071	320,040	136,243
Other professional services	42,994	42,994	20,413	47%	22,581	36,069	41,346
Administration fees	57,960	57,960	42,216	73%	15,744	69,720	48,097
Insurance and bonds	390,246	408,594	397,034	97%	11,560	371,987	387,215
Insurance claims:							
Medical	1,500,000	1,500,000	507,514	34%	992,486	1,774,096	1,268,050
Dental	130,000	130,000	60,137	46%	69,863	128,647	115,721
Vision	10,000	10,000	7,060	71%	2,940	8,671	8,739
Prescriptions	250,000	250,000	77,768	31%	172,232	174,995	160,654
Stop loss	353,000	353,000	198,878	56%	154,122	261,509	352,179
Unemployment	16,400	16,400	9,034	55%	7,366	24,440	2,242
Health savings account	25,000	30,000	11,425	38%	18,575	10,950	14,548
Transfers out	49,032	49,824	28,602	57%	21,222	49,824	1,813
Total Expenses	<u>2,989,811</u>	<u>3,016,277</u>	<u>1,480,810</u>	49%	<u>1,535,467</u>	<u>3,246,206</u>	<u>2,550,747</u>
Change in Net Position	\$ <u>(371,641)</u>	\$ <u>(398,107)</u>	(297,365)		\$ <u>100,742</u>	(529,293)	319,936
Net Position - Beginning of Year			1,930,059			2,459,352	2,139,416
Net Position - End of Year			\$ <u>1,632,694</u>			\$ <u>1,930,059</u>	\$ <u>2,459,352</u>



Gunnison County, CO Sales Tax Analysis

MONTH	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Difference FY 2021 - FY 2020
JAN.	\$ 124,812	\$ 138,778	\$ 158,391	\$ 169,492	\$ 210,792	\$ 232,846	\$ 22,054
FEB.	162,620	146,348	146,776	166,280	214,522	256,460	41,938
MAR.	155,912	174,850	167,236	175,056	168,174	289,047	120,873
APR.	103,803	95,463	119,378	131,631	138,077	198,871	60,794
MAY	108,133	114,855	141,564	142,361	170,400	232,172	61,772
JUN.	179,753	182,927	212,726	236,407	251,464	359,388	107,924
JUL.	236,207	223,910	280,130	312,630	333,856	-	-
AUG.	228,310	238,981	232,909	272,405	303,901	-	-
SEP.	187,825	200,135	275,372	246,783	324,845	-	-
OCT.	119,881	139,798	158,391	201,630	237,616	-	-
NOV.	95,291	115,684	124,680	172,530	204,231	-	-
DEC.	171,376	181,468	193,386	259,514	297,746	-	-
TOTAL	\$ 1,873,923	\$ 1,953,197	\$ 2,210,939	\$ 2,486,719	\$ 2,855,624	\$ 1,568,784	\$ 415,355

INCREASE/(DECREASE) IN SALES TAX COLLECTION

N/A \$ 79,274 \$ 257,742 \$ 275,780 \$ 368,905 \$ 415,355

% INCREASE FROM PREVIOUS YEAR

N/A 4.23% 13.20% 12.47% 14.84% 36.01%

BUDGET VS. ACTUAL VARIANCE ANALYSIS

	\$ 1,838,000	\$ 1,838,400	\$ 1,924,050	\$ 2,110,144	\$ 2,364,672	\$ 2,633,382
	\$ 35,923	\$ 114,797	\$ 286,889	\$ 376,575	\$ 490,952	\$ (1,064,598)
	1.95%	6.24%	14.91%	17.85%	20.76%	-40.43%

Lodging Tax



Gunnison County, CO Lodging Tax Analysis

MONTH	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Difference FY 2021 - FY 2020
	JAN.	\$ 154,436	\$ 131,290	\$ 151,064	\$ 182,040	\$ 192,500	\$ 255,794
FEB.	165,327	150,313	153,562	177,839	218,603	321,802	103,199
MAR.	164,788	191,482	225,891	209,741	183,758	403,592	219,834
APR.	102,950	125,862	56,936	101,064	75,416	95,161	19,745
MAY	49,027	56,778	80,399	70,528	25,651	113,119	87,468
JUN.	134,527	164,149	267,972	205,252	182,098	373,495	191,397
JUL.	267,932	267,633	313,473	309,873	353,689	-	-
AUG.	194,453	227,619	242,085	258,027	304,422	-	-
SEP.	224,683	249,060	294,660	276,904	364,005	-	-
OCT.	68,702	120,135	90,870	97,483	152,901	-	-
NOV.	41,425	40,051	62,626	82,407	102,034	-	-
DEC.	163,080	184,857	192,679	217,147	282,197	-	-
TOTAL	<u>\$ 1,731,330</u>	<u>\$ 1,909,229</u>	<u>\$ 2,132,217</u>	<u>\$ 2,188,305</u>	<u>\$ 2,437,274</u>	<u>\$ 1,562,963</u>	<u>\$ 684,937</u>

INCREASE/(DECREASE) IN LODGING TAX COLLECTION

N/A \$ 177,899 \$ 222,988 \$ 56,088 \$ 248,969 \$ 684,937

% INCREASE FROM PREVIOUS YEAR

N/A 10.28% 11.68% 2.63% 11.38% 78.01%

BUDGET VS. ACTUAL VARIANCE ANALYSIS

\$ 1,300,000	\$ 1,400,000	\$ 1,958,078	\$ 2,241,524	\$ 2,165,100	\$ 2,042,599
\$ 431,330	\$ 509,229	\$ 174,139	\$ (53,219)	\$ 272,174	\$ (479,636)
33.18%	36.37%	8.89%	-2.37%	12.57%	-23.48%



Gunnison County, CO Property Tax Analysis

MONTH	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Difference FY 2021 - FY 2020
JAN.	\$ 332,370	\$ 264,506	\$ 1,070,026	\$ 233,522	\$ 134,475	\$ 173,274	\$ 38,799
FEB.	3,126,194	2,874,792	3,000,860	3,575,393	3,427,375	3,528,551	101,176
MAR.	727,516	1,477,410	856,748	893,247	1,394,706	1,968,791	574,085
APR.	2,126,794	2,138,588	2,493,976	2,585,290	2,271,679	2,740,269	468,590
MAY	899,323	920,359	664,214	783,630	956,206	958,883	2,677
JUN.	1,692,393	1,737,414	1,625,432	1,663,551	2,090,321	1,800,170	(290,151)
JUL.	256,839	263,452	307,803	322,482	418,233	-	-
AUG.	125,256	139,196	129,067	120,684	199,520	-	-
SEP.	45,571	46,996	27,126	54,505	29,812	-	-
OCT.	94,898	15,172	28,788	43,340	24,691	-	-
NOV.	692	73,590	33,614	45,832	67,256	-	-
DEC.	3,343	518	240	758	1,571	-	-
TOTAL	\$ 9,431,189	\$ 9,951,993	\$ 10,237,894	\$ 10,322,234	\$ 11,015,845	\$ 11,169,938	\$ 895,176

1st Six Month Collection & % of Total Collection

\$ 8,904,590	\$ 9,413,069	\$ 9,711,256	\$ 9,734,633	\$ 10,274,762	\$ 11,169,938
94%	95%	95%	94%	93%	100%

INCREASE/(DECREASE) IN CURRENT PROPERTY TAX COLLECTION

N/A	\$ 520,804	\$ 285,901	\$ 84,340	\$ 693,611	\$ 895,176
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% INCREASE FROM PREVIOUS YEAR

N/A	5.52%	2.87%	0.82%	6.72%	8.71%
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BUDGET VS. ACTUAL VARIANCE ANALYSIS

\$ 9,299,510	\$ 9,818,217	\$ 10,104,199	\$ 10,174,554	\$ 10,853,919	\$ 11,559,653
\$ 131,679	\$ 133,776	\$ 133,695	\$ 147,680	\$ 161,926	\$ (389,715)
1.42%	1.36%	1.32%	1.45%	1.49%	-3.37%

Source: County Treasurer

Note: Property taxes are for the following entities: Library, General Fund, HHS, Hospital



Gunnison County, CO
ECONOMIC INDICATOR
Building Permit VALUATION Activity Analysis

MONTH	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Difference FY 2021 - FY 2020
	JAN.	\$ 50,910	\$ 26,007	\$ 1,067,608	\$ 16,000	\$ 413,103	\$ 224,900
FEB.	78,995	186,362	149,524	329,908	783,571	398,665	(384,906)
MAR.	952,376	1,102,963	1,152,007	31,144	1,103,238	2,468,015	1,364,777
APR.	1,769,554	1,232,943	1,795,091	4,911,591	1,366,080	6,002,259	4,636,179
MAY	4,741,821	4,227,945	7,529,760	6,016,672	3,344,675	6,083,995	2,739,320
JUN.	4,913,978	4,907,746	4,573,576	5,314,445	4,267,340	8,408,241	4,140,901
JUL.	6,017,275	2,505,754	3,656,211	4,746,933	3,134,006	-	-
AUG.	1,679,346	2,165,369	5,677,517	4,376,944	5,627,681	-	-
SEP.	816,999	4,765,416	3,246,352	653,218	3,460,940	-	-
OCT.	1,733,009	2,617,901	3,721,891	1,746,144	4,212,498	-	-
NOV.	809,240	976,629	1,705,622	3,407,251	847,460	-	-
DEC.	227,946	1,314,430	149,089	277,825	150,595	-	-
TOTAL	\$ 23,791,449	\$ 26,029,465	\$ 34,424,248	\$ 31,828,075	\$ 28,711,187	\$ 23,586,075	\$ 12,308,068

INCREASE/(DECREASE) IN ACTIVITY

N/A \$ 2,238,016 \$ 8,394,783 \$ (2,596,173) \$ (3,116,888) \$ 12,308,068

% INCREASE FROM PREVIOUS YEAR

N/A 9.41% 32.25% -7.54% -9.79% 109.13%



**Gunnison County, CO
ECONOMIC INDICATOR
Airport Enplanement Activity Analysis**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Difference FY 2021 - FY 2020
MONTH							
JAN.	5,504	5,567	6,753	6,214	6,600	4,441	(2,159)
FEB.	6,129	5,233	5,397	5,225	6,545	4,497	(2,048)
MAR.	7,119	7,269	6,166	6,648	4,311	6,376	2,065
APR.	850	507	1,444	937	30	1,576	1,546
MAY	-	-	884	794	75	1,520	1,445
JUN.	800	248	1,779	2,108	241	2,268	2,027
JUL.	4,010	3,617	4,155	4,206	1,811	-	-
AUG.	3,171	2,643	3,471	3,560	2,241	-	-
SEP.	1,496	1,350	1,540	2,133	2,081	-	-
OCT.	1,225	1,110	1,270	1,216	1,357	-	-
NOV.	873	942	868	825	831	-	-
DEC.	4,620	4,399	3,594	3,408	2,775	-	-
TOTAL	<u>35,797</u>	<u>32,885</u>	<u>37,321</u>	<u>37,274</u>	<u>28,898</u>	<u>20,678</u>	<u>2,876</u>

INCREASE/(DECREASE) IN ACTIVITY

N/A \$ (2,912) \$ 4,436 \$ (47) \$ (8,376) \$ 2,876

% INCREASE FROM PREVIOUS YEAR

N/A -8.13% 13.49% -0.13% -22.47% 16.16%



**Gunnison County, CO
ECONOMIC INDICATOR
Unemployment Rate Analysis**

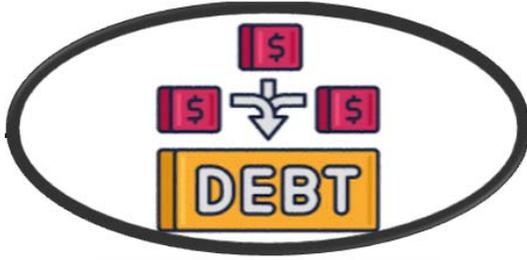
	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Difference FY 2021 - FY 2020
MONTH							
JAN.	2.5	2.2	2.2	2.7	2.2	4.8	2.6
FEB.	2.5	2.2	2.4	2.4	2.2	4.7	2.5
MAR.	2.4	1.7	2.3	2.2	3.7	4.7	1.0
APR.	2.6	1.7	2.2	2.3	16.0	5.3	(10.7)
MAY	2.6	2.1	2.5	2.3	14.9	5.1	(9.8)
JUN.	2.3	1.9	2.5	2.1	11.7	4.8	(6.9)
JUL.	2.0	1.6	2.2	1.6	5.9	-	
AUG.	2.0	1.6	2.3	1.7	5.0	-	
SEP.	1.8	1.5	2.0	1.6	4.1	-	
OCT.	2.0	2.0	2.3	1.8	4.5	-	
NOV.	1.9	2.3	2.7	2.2	5.4	-	
DEC.	1.7	2.0	2.3	2.0	5.0	-	
Average	<u>2.19</u>	<u>1.90</u>	<u>2.33</u>	<u>2.08</u>	<u>6.72</u>	<u>4.90</u>	<u>(3.55)</u>

INCREASE/(DECREASE) IN CURRENT ACTIVITY

N/A (0.29) 0.43 (0.25) 4.64 (6.90)

% INCREASE FROM PREVIOUS YEAR

N/A 13.31% -22.37% 10.75% -223.69% 58.97%



Gunnison County, CO
LONG-TERM DEBT ISSUANCES
For the QUARTER Ended June 30, 2021

<u>Debt Type</u>	<u>Series</u>	<u>Interest Rate(s)</u>	<u>Date of Maturity</u>	<u>Original Issuance</u>	<u>Unspent Proceeds</u>	<u>Debt Issuances Maturity Info</u>		
						<u>Principal Budgeted This FY</u>	<u>Interest Budgeted This FY</u>	<u>Balance After This FY Principal</u>
<u>DEBT SERVICE FUND</u>								
Certificates of Participation	2020	2.5% - 5.0%	2038	\$ 11,345,000	\$ -	\$ 410,000	\$ 496,050	\$ 10,865,000
Certificates of Participation	2020B	4.0% - 5.0%	2040	6,340,000	-	80,000	408,720	6,260,000
Certificates of Participation	2020C	0.5% - 2.35%	2038	9,000,000	7,182,850	450,000	153,379	8,550,000
				\$ 26,685,000	\$ 7,182,850	\$ 940,000	\$ 1,058,149	\$ 25,675,000
<u>WATER</u>								
USDA RUS Water Revenue Bond	2013	2.13%	9/30/2042	\$ 1,154,230	\$ -	\$ 21,591	\$ 21,349	\$ 989,091
				\$ 1,154,230	\$ -	\$ 21,591	\$ 21,349	\$ 989,091
<u>SEWER</u>								
USDA RUS Sewer Revenue Bond	2005	4.50%	2044	\$ 1,519,270	\$ -	\$ 29,217	\$ 50,103	\$ 1,156,905
USDA RUS Sewer Revenue Bond	2005B	4.25%	2046	322,000	-	5,822	10,994	254,291
				\$ 1,841,270	\$ -	\$ 35,039	\$ 61,097	\$ 1,411,196
County-Wide Total				\$ 11,995,500	\$ 7,182,850	\$ 506,630	\$ 235,825	\$ 10,950,287



Gunnison County, CO
CAPITAL LEASES/BANK LOANS DEBT
For the QUARTER Ended June 30, 2021

	<u>Lease Company</u>	<u>Leased During FY</u>	<u>Length of Lease</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>Lease Amount</u>	<u>Payments - P&I</u>		<u>Lease Balance End of this FY</u>	
							<u>Monthly</u>	<u>Annual</u>		
1-	CHFA - Pitchfork	2001	20 Yrs	2021	4.00%	\$ 63,174	\$ 1,055	\$ 6,327	\$ -	
	<i>Distribution/Owners:</i>		Housing Authority	100.00%		63,174	1,055	6,327	-	
2-	Somerset Waterworks Dist	2003	20 Yrs	2023	5.00%	100,000	669	8,024	12,055	
	<i>Distribution/Owners:</i>		Water Fund	100.00%		100,000	669	8,024	12,055	
3-	CHFA - Mountain View	2003	30 Yrs	2033	5.75%	528,100	3,082	36,982	316,180	
	<i>Distribution/Owners:</i>		Housing Authority	100.00%		528,100	3,082	36,982	316,180	
4-	CHFA - Surplus Cash	2003	20 Yrs	2033	5.75%	624,011	2,007	24,085	18,933	
	<i>Distribution/Owners:</i>		Housing Authority	100.00%		624,011	2,007	24,085	18,933	
5-	CHFA - Contingent Repaym	2003	20 Yrs	2033	0.00%	378,863	-	-	378,863	
	<i>Distribution/Owners:</i>		Housing Authority	100.00%		378,863	-	-	378,863	
6-	Caterpillar - Moto Grader	2017	5 Yrs	Balloon 2022	2.70%	158,593	667	8,001	142,125	
	<i>Distribution/Owners:</i>		ISF I - Fleet	100.00%		158,593	667	8,001	142,125	
7-	Caterpillar - Moto Grader	2018	5 Yrs	Balloon 2022	2.43%	236,763	2,379	28,544	150,228	
	<i>Distribution/Owners:</i>		Solid Waste	100.00%		236,763	2,379	28,544	150,228	
8-	UMB Bank - Whetstone	2019	20 Yrs	2039	4.25%	1,400,000	6,184	74,202	1,266,682	
	<i>Distribution/Owners:</i>		Sales Tax	100.00%		1,400,000	6,184	74,202	1,266,682	
9-	Sterling NB - Solar Panels	2019	10 Yrs	2029	2.43%	1,320,689	12,439	149,262	1,073,388	
	<i>Distribution/Owners:</i>		Sales Tax	100.00%		1,320,689	12,439	149,262	1,073,388	
10-	Sterling NB - Geothermal	2019	10 Yrs	2029	2.43%	1,179,311	11,075	132,904	1,062,813	
	<i>Distribution/Owners:</i>		Sales Tax	100.00%		1,179,311	11,075	132,904	1,062,813	
11-	RV Com Rentals - Building	2021	3 Yrs	2023	4.00%	500,000	14,767	162,437	353,471	
	<i>Distribution/Owners:</i>		Airport	100.00%		500,000	14,767	162,437	353,471	
12-	Caterpillar - Moto Grader	2021	5 Yrs	2025	2.82%	413,763	5,836	70,034	352,047	
	<i>Distribution/Owners:</i>		Solid Waste	100.00%		\$ 413,763	\$ 5,836	\$ 70,034	\$ 352,047	
						Sales Tax	\$ 3,900,000	\$ 29,697	\$ 356,368	\$ 3,402,883
						Housing Authority	1,594,148	6,143	67,394	713,976
						Water	100,000	669	8,024	12,055
						Solid Waste	650,526	8,215	98,578	502,275
						ISF I - Fleet	158,593	667	8,001	142,125
						Airport	500,000	14,767	162,437	353,471
						County-Wide Total	\$ 6,903,267	\$ 60,158	\$ 700,802	\$ 5,126,785



Gunnison County, CO
CAPITAL IMPROVEMENT PROJECT LISTING
For the QUARTER Ended June 30, 2021

	Budget/Est. Contract Price	Prior Years	FY 2021	Total Paid	Retainage			Balance To Be Paid	% Complete
					Prior FY	This FY	Total		
1 Airport Terminal Reconstruction									
Architect <i>Gensler</i>	\$ 2,256,377	\$ 1,401,063	\$ 374,420	\$ 1,775,483	\$ -	\$ -	\$ -	\$ 480,894	78.7%
Studies <i>Mead & Hunt</i>	166,593	166,593	-	166,593	-	-	-	-	100.0%
Construction <i>Shaw Constr</i>	24,387,535	-	3,457,678	3,457,678	-	126,603	126,603	20,929,857	14.7%
Other	228,782	127,614	101,168	228,782	-	-	-	-	
Project Total	\$ 27,039,287	\$ 1,695,270	\$ 3,933,266	\$ 5,628,536	\$ -	\$ 126,603	\$ 126,603	\$ 21,410,751	
2 Library									
Architect <i>Anderson</i>	\$ 1,100,000	\$ 50,000	\$ 700,465	\$ 750,465	\$ -	\$ -	\$ -	\$ 349,535	68.2%
Construction <i>Black Dragon Dev</i>	9,251,599	94,234	2,104,581	2,198,815	-	211,949	211,949	\$ 7,052,784	26.1%
Other	1,287,190	83,575	-	83,575	-	83,575	83,575	\$ 1,203,615	
Project Total	\$ 11,638,789	\$ 227,809	\$ 2,805,046	\$ 3,032,855	\$ -	\$ 295,524	\$ 295,524	\$ 8,605,934	
3 Shady Island River Access Park									
Engineering <i>Merrick</i>	\$ 63,682	\$ 43,877	\$ -	\$ 43,877	\$ -	\$ -	\$ -	\$ 19,805	68.9%
Construction <i>Spallone</i>	472,990	132,926	292,765	425,691	14,770	32,529	47,299	\$ 47,299	100.0%
Other	118,272	118,272	-	118,272	-	118,272	118,272	\$ -	
Project Total	\$ 654,944	\$ 295,075	\$ 292,765	\$ 587,840	\$ 14,770	\$ 150,801	\$ 165,571	\$ 67,104	
4 Energy Efficiency Project - Geothermal									
Engineering	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	#DIV/0!
Construction <i>Johnson Controls</i>	1,740,791	950,396	703,355	1,653,751	47,333	39,707	87,040	\$ 87,040	100.0%
Other	-	-	-	-	-	-	-	\$ -	
Project Total	\$ 1,740,791	\$ 950,396	\$ 703,355	\$ 1,653,751	\$ 47,333	\$ 39,707	\$ 87,040	\$ 87,040	
Count- Wide Projects TOTAL	\$ 41,073,811	\$ 3,168,550	\$ 7,734,432	\$ 10,902,982	\$ 62,103	\$ 612,635	\$ 674,738	\$ 30,170,829	28.2%