

Guidebook for Through-the-Fence Operations

DETAILS

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AIRPORT COOPERATIVE RESEARCH PROGRAM

ACRP REPORT 114

**Guidebook for
Through-the-Fence Operations**

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AIRPORT COOPERATIVE RESEARCH PROGRAM

Airports are vital national resources. They serve a key role in transportation of people and goods and in regional, national, and international commerce. They are where the nation's aviation system connects with other modes of transportation and where federal responsibility for managing and regulating air traffic operations intersects with the role of state and local governments that own and operate most airports. Research is necessary to solve common operating problems, to adapt appropriate new technologies from other industries, and to introduce innovations into the airport industry. The Airport Cooperative Research Program (ACRP) serves as one of the principal means by which the airport industry can develop innovative near-term solutions to meet demands placed on it.

The need for ACRP was identified in *TRB Special Report 272: Airport Research Needs: Cooperative Solutions* in 2003, based on a study sponsored by the Federal Aviation Administration (FAA). The ACRP carries out applied research on problems that are shared by airport operating agencies and are not being adequately addressed by existing federal research programs. It is modeled after the successful National Cooperative Highway Research Program and Transit Cooperative Research Program. The ACRP undertakes research and other technical activities in a variety of airport subject areas, including design, construction, maintenance, operations, safety, security, policy, planning, human resources, and administration. The ACRP provides a forum where airport operators can cooperatively address common operational problems.

The ACRP was authorized in December 2003 as part of the Vision 100-Century of Aviation Reauthorization Act. The primary participants in the ACRP are (1) an independent governing board, the ACRP Oversight Committee (AOC), appointed by the Secretary of the U.S. Department of Transportation with representation from airport operating agencies, other stakeholders, and relevant industry organizations such as the Airports Council International-North America (ACI-NA), the American Association of Airport Executives (AAAE), the National Association of State Aviation Officials (NASAO), Airlines for America (A4A), and the Airport Consultants Council (ACC) as vital links to the airport community; (2) the TRB as program manager and secretariat for the governing board; and (3) the FAA as program sponsor. In October 2005, the FAA executed a contract with the National Academies formally initiating the program.

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FOR E W O R D

By Marci A. Greenberger
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ACRP Report 114: Guidebook for Through-the-Fence Operations examines the issues involved in through-the-fence (TTF) operations. This guidebook will help airport operators who currently have TTF operations at their airport as well as those who are evaluating TTF activities for their airports. The guidebook has many worksheets and tools to help in that evaluation and for structuring and managing TTF operations. A discussion on grant assurances will help those at federally obligated airports understand their responsibilities.

TTF operations are those activities permitted by an airport sponsor through an agreement that provides access to the airside infrastructure to independent entities or operators that have property adjacent to, but are not a part of, the airport property. TTF operations occur at both general aviation and commercial service airports and can be residential, commercial aeronautical, non-commercial aeronautical, non-aeronautical, and government/military activities.

There are many airports that have TTF operations, all with varying reasons for their existence. Until now there hasn't been any objective guidance available to help airport operators manage TTF activities they may have, help assess its applicability at their airport, and structure future agreements. Mead & Hunt, Inc. as part of ACRP Project 10-12, was selected to conduct research to develop a guidebook that would discuss financial, operational, regulatory, legal and other issues associated with TTF. This guidebook will be useful to those airports who either need to manage existing TTF operations or those that are considering permitting, restricting, or prohibiting TTF activities.

Worksheets for assessing TTF operations (as discussed in Chapter 5) and a PowerPoint template for TTF operations are available at <http://www.trb.org/Main/Blurbs/170955.aspx>.



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SUMMARY

Guidebook for Through-the-Fence Operations

Since airports have been in existence, it has been an ongoing challenge for airport management and policymakers to properly control aircraft, vehicle, and pedestrian access to an airport's airside infrastructure (e.g., runways and taxiways) from adjacent off-airport property. These challenges continue as airport sponsors look for ways to fund the planning, development, operation, and management of airports. Airport management and policymakers are also striving to meet the needs of airport customers by permitting activities that may facilitate the growth and development of an airport and generate additional revenue. Unfortunately, these challenges come at a time when the need to properly structure and appropriately manage airport access; maintain the safety, utility, and efficiency of an airport; and foster economic parity between on-airport operators, tenants, and users and entities operating from off-airport property and accessing the airport has never been higher. Consequently, there is a genuine need to provide guidance to airport management and policymakers at federally obligated airports on how to properly assess, structure, and manage these activities, which are typically referred to as through-the-fence (TTF) operations.

In general, TTF operations encompass the ground movement of aircraft to and from land adjacent to, but not part of, airport property to and from the airport's airside infrastructure. Activities commonly associated with TTF operations include residential, commercial aeronautical, non-commercial aeronautical, non-aeronautical, and governmental/military. While the FAA has long-standing policies that discourage TTF operations, TTF operations exist for a number of reasons including:

- economic benefit;
- political pressure;
- inability to accommodate additional on-airport development;
- desire to accommodate adjacent property owners with aircraft; and
- adjacent property owners with deeded access to the airport.

Once TTF operations have been allowed, it can be difficult to remedy related issues. As such, it has become imperative that guidance be provided to airport management and policymakers on assessing TTF operations and, if TTF operations are going to be permitted, what steps should be taken to properly structure and appropriately manage the TTF operations.

This guidebook can be used by a wide audience. It:

- conveys information on relevant airport sponsor obligations (for federally obligated airports);
- reviews the legal interests and principles pertaining to FAA decisions and court rulings on issues related to TTF operations;
- discusses the various types of TTF activities and the associated advantages, disadvantages, and impacts; and
- outlines the process (and provides tools) for assessing, structuring, and managing TTF operations.

No two airports are exactly the same. As such, the assessment approach and the determination of whether or not to permit, restrict, or prohibit TTF operations will be unique and the outcome will vary from airport to airport. This guidebook has been developed to help the reader assess, structure, and manage TTF operations. It will be useful to airports with existing TTF operations as well as airports considering permitting, restricting, or prohibiting TTF operations in the future.

CHAPTER ONE

INTRODUCTION

- 1.1 What Are Through-The-Fence (TTF) Operations?
- 1.2 Purpose of this Guidebook
- 1.3 Overview of this Guidebook
- 1.4 Key TTF Terms
- 1.5 Parties Having Direct Interest in TTF Operations
- 1.6 Background on the Types of TTF Activities
- 1.7 Wrap-Up

1.1 WHAT ARE THROUGH-THE-FENCE (TTF) OPERATIONS?

In general, TTF operations encompass the ground movement of aircraft to/from land adjacent to, but not part of, airport property to/from the airport's airside infrastructure (e.g., runways and taxiways).

More specifically, based on research conducted for this guidebook and consistent with the FAA definition provided in *FAA Advisory Circular 150/5190-7, Minimum Standards for Commercial Aeronautical Activities* (AC 150/5190-7), TTF operations occur when an airport sponsor grants an entity ground access by an aircraft across the airport's property boundary to the airport's airside infrastructure (commonly through-the-fence) and permission to engage in associated activities from property adjacent to the airport.

Activities commonly associated with TTF operations include **residential, commercial aeronautical, non-commercial aeronautical, non-aeronautical, and governmental/military**. Each of these are defined and discussed in this guidebook.

Of the 44 (out of 159) airport sponsors who responded to the research team's survey on TTF operations, approximately 30% of the airport sponsors with existing TTF operations do not have a TTF agreement in place with the TTF entity. This can be problematic for the airport sponsor and the TTF entity. The ramifications of not having a TTF agreement will be discussed in this guidebook.

While TTF operations primarily involve TTF access by aircraft, airport sponsors may also need to address use of TTF access points by vehicles and pedestrians. Of the surveyed airports, 39% had vehicles and 28% had pedestrians utilizing TTF access points. As such, this guidebook will address TTF access by aircraft, vehicles, and pedestrians.

It is important to understand the difference between an independent operator and a TTF operation.

An independent operator is commonly defined in the industry as an entity who engages in commercial aeronautical activities at an airport without a physical place of business at the airport. This includes the provisions of airframe and powerplant maintenance and repair and flight instruction by independent operators.

Conversely, TTF operations pertain to having ground access by an aircraft to the airport and engaging in activities on property located adjacent to the airport.

Guidance for independent operators engaging in commercial aeronautical activities is provided in AC 150/5190-7.

1.2 PURPOSE OF THIS GUIDEBOOK

This guidebook and accompanying resources and tools are designed to help airport management and policymakers of federally obligated airports assess, structure, and manage existing, proposed, and future TTF operations. Additionally, this guidebook can be beneficial to other parties who want to gain a better understanding of how an airport sponsor may assess, structure, and manage TTF operations.

Based on research conducted for this guidebook and the survey responses, TTF operations occur at airports for a variety of reasons, some of which include:

- economic benefit to the community and/or the airport (40% of surveyed airports);
- political pressure (30% of surveyed airports);
- inability to accommodate further development of aviation products, services, and facilities on the airport due to land or physical constraints (15% of surveyed airports);
- desire to accommodate adjacent property owners that own and operate aircraft (7.5% of surveyed airports);
- adjacent property owner had deeded access to the airport (7.5% of surveyed airports); and
- for unknown reasons – as the TTF operation was created many years ago, before existing management and/or there is no agreement in place stipulating the purpose, terms, and/or conditions of the TTF operation (10% of surveyed airports).

TTF operations have created opportunities and issues for airport sponsors of federally obligated airports. As airport sponsors look for more creative ways to fund the planning, development, operation, and management of airports while also striving to meet the needs of operators, tenants, and users, it is expected that these opportunities and issues will continue.

With TTF operations, as with many other opportunities and issues associated with a federally obligated airport, it is critical to find the right balance of costs and benefits against risks and rewards while maintaining compliance with the airport sponsor's obligations—including being as **self-sufficient as possible given the circumstances that exist**—and ensuring the **safety, utility, and efficiency** of the airport for the benefit of the public (including the **security** and **compatibility** of the airport). For purposes of brevity and consistency with the FAA, throughout this guidebook the words safety, utility, and efficiency will be utilized to encapsulate these elements.

This guidebook is based on the following research:

- a comprehensive review of industry literature on TTF operations;
- identification of approximately 190 airports in 43 states with existing TTF operations;
- interviews of airport stakeholders (at 15 airports with existing TTF operations) and industry practitioners (from 9 governmental agencies and industry associations having an interest in TTF operations); and
- a survey of airport management at 159 airports with existing TTF operations (with 44 responses which represents a response rate of 28%). This research revealed that diverse views and practices exist with regard to assessing, structuring, and managing TTF operations.

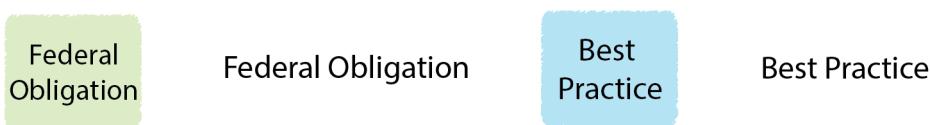
Based on the research findings, this guidebook outlines compliance requirements and best practices for assessing, structuring, and managing TTF operations and describes each of the TTF activities commonly associated with TTF operations, including **residential, commercial aeronautical, non-commercial aeronautical, non-aeronautical, and governmental/military**.

More specifically, this guidebook:

- reviews the relevance and impact of an airport sponsor's obligations (including federal and state statutes, assurances, policies, and guidance) relating to TTF operations;
- discusses legal interests and principles related to TTF operations;
- identifies airport planning, development, operation, management, and compliance tools that can be used to assess, structure, and manage TTF operations;
- outlines the process for assessing the advantages, disadvantages, and impacts associated with TTF operations;
- discusses specific airport policies, standards, rules, regulations, and agreements that can be used to structure and manage TTF operations; and
- conveys best practices for assessing, structuring, and managing TTF operations.

To help facilitate navigation of this guidebook, airport sponsor federal obligations and best practices discussed in this guidebook will be identified by the icons depicted in **Figure 1-1**.

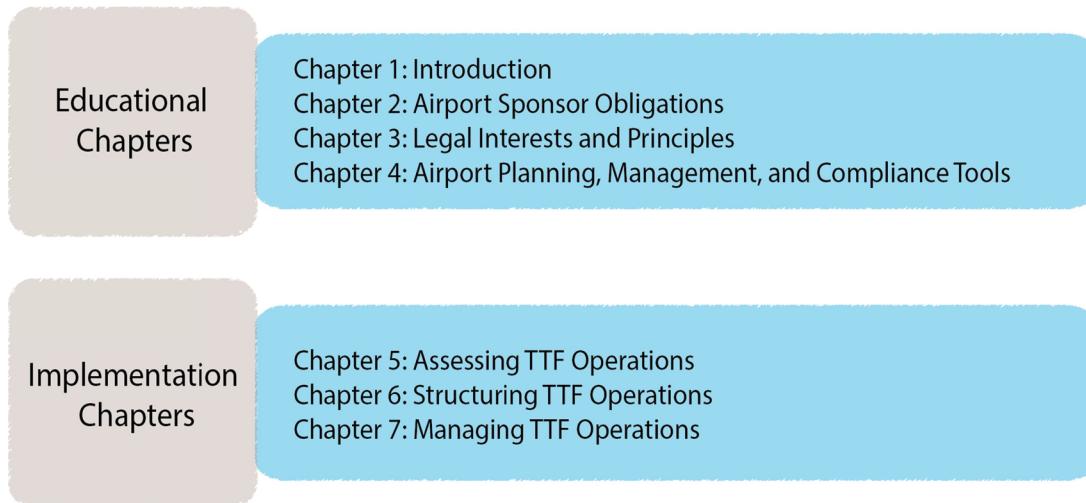
FIGURE 1-1: Guidebook Icons



1.3 OVERVIEW OF THIS GUIDEBOOK

This guidebook is organized from an **educational** standpoint (i.e., foundational and background information that will be helpful in assessing, structuring, and managing TTF operations) and an **implementation** standpoint (i.e., what actions can and should be taken to assess, structure, and manage TTF operations). As depicted in **Figure 1-2**, this guidebook consists of seven chapters (four educational chapters and three implementation chapters).

FIGURE 1-2: Educational and Implementation Chapters



EDUCATIONAL CHAPTERS

The educational chapters provide foundational information that will be helpful for assessing, structuring, and managing TTF operations. An overview of each educational chapter follows:

- Chapter 1: Introduction defines TTF operations and other key TTF terms; identifies the purpose of this guidebook; provides an overview of this guidebook; identifies and discusses the parties having direct interest in TTF operations; and describes the different types of TTF activities.
- Chapter 2: Airport Sponsor Obligations provides an overview of federal and state obligations of an airport sponsor relating specifically to TTF operations including statutes, assurances, policies, and guidance.
- Chapter 3: Legal Interests and Principles discusses the legal interests of the airport sponsor and the TTF entity as property owners and summarizes the legal principles established through FAA decisions and court rulings.
- Chapter 4: Airport Planning, Management, and Compliance Tools provides an overview of the tools that can be used to plan, develop, operate, and manage an airport to ensure the safety, utility, and efficiency of the airport for the benefit of the public; maintain compliance with airport sponsor obligations; and remain consistent with established legal principles. These airport planning, management, and compliance tools include **primary planning documents** (e.g., strategic business plan, master plan, and airport layout plan), **airport sponsor regulatory measures** (e.g., ordinances, zoning codes, and building codes), and **primary management and compliance documents** (e.g., leasing/rents and fees policy, minimum standards, rules and regulations, and development standards).

IMPLEMENTATION CHAPTERS

The implementation chapters provide the framework, from a best practices perspective, for assessing, structuring, and managing TTF operations. An overview of each implementation chapter follows:

- Chapter 5: Assessing TTF Operations identifies and discusses the process associated with assessing TTF operations and introduces various resources and tools that can be used during the assessment. This chapter also introduces the advantages, disadvantages, and impacts associated with TTF operations in each of the following areas: alternatives to TTF operations; airport sponsor obligations; primary planning documents; airport sponsor regulatory measures; primary management and compliance documents; land, infrastructure, and improvements; activities; and interested parties.
- Chapter 6: Structuring TTF Operations discusses airport sponsor policies relating specifically to TTF operations that can be developed and implemented utilizing the airport planning, management, and compliance tools discussed in Chapter 4 to provide the framework for structuring a TTF operation. Additionally, this chapter introduces the various rents and fees commonly associated with TTF operations; discusses the different types of TTF agreements that can be utilized to govern TTF operations; and provides an annotated outline of the recommended terms and conditions that should be included in a TTF agreement.
- Chapter 7: Managing TTF Operations discusses how airport management and policymakers can utilize the airport planning, management, and compliance tools discussed in Chapter 4 to formulate and deploy best practices for managing TTF operations. Additionally, this chapter identifies the most common safety, utility, and efficiency issues associated with the management of TTF operations and discusses educational and enforcement methodologies.

RESOURCES AND TOOLS

Resources and tools are identified, discussed, and provided throughout this guidebook for assessing, structuring, and managing TTF operations. Specific resources and tools are as follows:

- Appendix contains the *Airport Sponsor Assurances*, relevant case studies of TTF operations, and other resources for assessing, structuring, and managing TTF operations.
- Additional resources and tools are available at <http://www.trb.org/Main/Blurbs/170955.aspx>:
 - Worksheets – The worksheets for assessing TTF operations that are provided at the end of Chapter 5: Assessing TTF Operations and included as digital files.
 - Presentation – This part includes a presentation template, once customized for the airport and the TTF operation, that can be used by airport management and policymakers for educating TTF entities and airport stakeholders on the advantages, disadvantages, and impacts associated with TTF operations (in general) and the opportunities and issues of existing, proposed, or future TTF operations (specifically) is provided in the digital files.

To help facilitate navigation of this guidebook, the resources and tools will be identified by the icons depicted in **Figure 1-3**.

FIGURE 1-3: Resource and Tool Icons



Resource



Tool

It is recommended that the remainder of Chapter 1 and all of Chapters 2, 3, and 4 be read before reading the implementation chapters. In addition to providing the educational and background information for assessing, structuring, and managing TTF operations and defining key terms, these chapters provide an overview of statutes, assurances, policies, and guidance relating specifically to TTF operations; legal interests and principles associated with TTF operations; and airport planning, management, and compliance tools that can be used to assess, structure, and manage TTF operations. Once the educational chapters have been read, **Figure 1-4** shows which of the remaining chapters should be read to obtain additional guidance for the specific situation and/or circumstance.

FIGURE 1-4: Using this Guidebook

If the airport sponsor...

- has an existing TTF operation/agreement pending renewal
- has solicited or received a proposal for TTF operations
- is considering permitting TTF operations in the future

Then read...

- Chapter 5: Assessing TTF Operations* to:
 - guide assessment process
 - identify advantages and disadvantages
 - identify positive and negative impacts

- will be renewing an existing TTF operation/agreement
- is negotiating the terms and conditions of a TTF agreement
- has adopted policy to permit TTF operations

- Chapter 6: Structuring TTF Operations* to:
 - develop and implement TTF policy
 - develop and implement TTF rents and fees
 - develop and negotiate TTF agreements

- has existing TTF operations
- will have TTF operations

- Chapter 7: Managing TTF Operations* to:
 - develop and implement management and compliance documents
 - address common issues with TTF operations
 - formulate specific enforcement approaches

1.4 KEY TTF TERMS

To assist the reader, the key terms commonly associated with TTF operations have been identified and defined in this section.

TTF PROPERTY

TTF property is land (and associated infrastructure and improvements) located adjacent to a federally obligated airport that is owned, leased, or under the full and exclusive control of an entity other than the airport sponsor having ground access for aircraft across the airport's property boundary to the airport's airside infrastructure.

It is important to note that while TTF property is most commonly "contiguous" with airport property, in some cases, a TTF property may have ground access to airport property through another off-airport property, easement, public roadway, or other means. However, the word "adjacent" is commonly utilized in federal statutes, assurances, policies, and guidance to describe a TTF property. Additionally, the use of the term "TTF" does not imply that a fence and/or gate exists between the adjacent property and airport property to be considered TTF property.

TTF ACCESS

TTF access means the right or privilege of being granted ground access for aircraft across the airport's property boundary to the airport's airside infrastructure. In certain situations, TTF access may be granted to vehicles and pedestrians as well.

TTF ACTIVITIES

TTF activities occur on TTF property and require ground access for aircraft across the airport's property boundary to the airport's airside infrastructure. The specific types of activities associated with TTF operations include: **residential**, **commercial aeronautical**, **non-commercial aeronautical**, **non-aeronautical**, and **governmental/military**. Each type of TTF activity is defined and discussed in this chapter. In addition, sections of this guidebook that are related to or impact specific TTF activities will be identified by the icons depicted in **Figure 1-5**.

FIGURE 1-5: TTF Activity Icons



Residential TTF



Non-Aeronautical TTF



Non-Commercial Aeronautical TTF



Governmental/Military TTF



Commercial Aeronautical TTF

TTF AGREEMENT

A TTF agreement is a written contract or instrument (e.g., agreement, permit, easement, deed, etc.), enforceable by law, executed by an airport sponsor and TTF entity, permitting TTF operations.

1.5 PARTIES HAVING DIRECT INTEREST IN TTF OPERATIONS

This section identifies and discusses the parties having **direct** interest in TTF operations. It is significant to note that there are several parties who may have **indirect** interest in TTF operations including adjacent property owners; on-airport operators and tenants; other users of the airport; and the surrounding community. The interests of each party (and the impact of each party's interests on the assessment process) will be discussed in Chapter 5: Assessing TTF Operations.

FEDERAL AVIATION ADMINISTRATION

The FAA is the agency within the U.S. Department of Transportation responsible for regulating aeronautical activities. Further, the FAA administers the Airport Improvement Program (AIP) which provides funding for the planning and development (including noise mitigation) of federally obligated airports included in the National Plan of Integrated Airport Systems (NPIAS). Airports that receive AIP funds must agree to certain federal obligations (discussed in Chapter 2: Airport Sponsor Obligations) including the Airport Sponsor Assurances (provided in Appendix A: Airport Sponsor Assurances or on the FAA website – www.faa.gov). One of the key aspects of the assurances is to ensure that federally obligated airports are planned, developed, operated, and managed for the benefit of the public in a way that will not adversely affect the safety, utility, or efficiency of the airport.



As it relates specifically to TTF operations, the FAA is primarily interested in an airport sponsor's ability to comply with its federal obligations. As such, the FAA may review the results of a TTF operation assessment conducted by airport sponsors, the structure established by airport sponsors to govern TTF operations, and the way airport sponsors manage TTF operations to ensure that the airport sponsor is complying with its federal obligations. It is important to note that the FAA discourages TTF operations in order for airport sponsors to maintain compliance. Recently, the FAA took steps to prohibit residential TTF activities at all federally obligated airports, but has since revised its policy based on congressional action (discussed in Chapter 2: Airport Sponsor Obligations). Further, the FAA will review the results of a TTF operation assessment as it relates to residential TTF activities.

While current federal obligations do not prohibit TTF operations at federally obligated general aviation airports, recent revisions to federal obligations prohibit new residential TTF activities at federally obligated commercial service and private reliever airports.

Federal
Obligation

STATE AVIATION ORGANIZATION

Most of the 50 states (along with the U.S. territories) have a state aviation organization (SAO), typically associated with the state's department of transportation, which promotes and funds airports and aviation programs. Each state, either individually or in conjunction with the FAA (as a block grant state), invests funds in the development of a statewide aviation system and issues grant funds for the planning, development, operation, and/or management of public use airports. Some states also own and operate public use airports directly.

Other than SAOs that own and operate airports with TTF operations, a SAO's interest in TTF operations is related to ensuring that airport sponsors maintain compliance with state obligations, that airports continue to serve aviation in the state, and that the role of an airport within the state's system plan is preserved. As such, SAOs may review the results of the assessment conducted by airport sponsors of TTF operations, the structure established by airport sponsors to govern TTF operations, and the way airport sponsors manage TTF operations to ensure that the airport sponsor is complying with its state obligations and maintaining consistency with the state's aviation or airport system plan.

AIRPORT SPONSOR

An airport sponsor is a federal agency, state agency, county, municipality (e.g., city, town, township, village, etc.), state enabled political subdivisions (e.g., authority, district, etc.), private entity, or combinations thereof that is authorized to own, plan, develop, operate, and manage a federally obligated airport. For brevity purposes, “county and municipality” will be utilized throughout this guidebook when discussing airport sponsors as this is the most common type of entity that owns a federally obligated airport. This is not designed to exclude the other types of airport sponsors from the guidance provided by this guidebook.

An airport sponsor’s interest in TTF operations is typically twofold. First, the airport sponsor must plan, develop, operate, and manage the airport to ensure the safety, utility, and efficiency of the airport for the benefit of the public, in compliance with applicable federal and state obligations. Therefore, the airport sponsor must ensure that a TTF operation will not negatively impact the airport sponsor’s ability to maintain compliance. Second, if an airport sponsor is also the county or municipality of the surrounding community, the potential financial, economic, environmental, and administrative impacts of a TTF operation (on the community) typically require that the county or municipality take a significant interest in TTF operations. As such, an airport sponsor should oversee the assessing, structuring, and managing of TTF operations.

Best Practice

It is the responsibility of an airport sponsor of a federally obligated airport to maximize the benefits associated with the use of land, infrastructure, and improvements located on-airport. Therefore, the guidance provided throughout this guidebook is based, in large part, on the premise that TTF operations should be being treated as if located on-airport. Therefore, the policies, standards, rules, and regulations adopted by the airport sponsor for TTF operations (discussed in Chapter 4: Airport Planning, Management, and Compliance Tools, Chapter 6: Structuring TTF Operations, and Chapter 7: Managing TTF Operations); the rents and fees for TTF operations (discussed in Chapter 6: Structuring TTF Operations), and the terms and conditions stipulated in a TTF agreement (discussed in Chapter 6: Structuring TTF Operations) should be consistent with the policies, standards, rules, and regulations; rents and fees; and terms and conditions stipulated in agreements for similar on-airport land, infrastructure, improvements, and activities.

TTF ENTITY

A TTF entity (a person, partnership, organization, or business that has a legal and separately identifiable existence, excluding the airport sponsor) owns, leases, or has the full and exclusive control of TTF property. Additionally, a TTF entity has an agreement with an airport sponsor granting ground access for an aircraft across the airport’s property boundary to the airport’s airside infrastructure for engaging in TTF activities.

While best practices dictate that a written document should be utilized to stipulate the terms and conditions of TTF operations, existing TTF operations may not have a written agreement with the airport sponsor. In such cases, the modification or termination of “rights” associated with the TTF operation can be problematic from multiple perspectives (e.g., political, legal, financial, etc.).

1.6 BACKGROUND ON THE TYPES OF TTF ACTIVITIES

While the types of TTF activities that take place at airports can vary widely and overlap, for purposes of this guidebook, five TTF activity categories have been identified and discussed. These include **residential, commercial aeronautical, non-commercial aeronautical, non-aeronautical, and governmental/military activities**. The background on each type of TTF activity is provided in this section including the definition; discussion of the common opportunities and issues; identification of examples; and introduction of the case study. The five categories were created based on the commonality of the opportunities and issues associated with each type of TTF activity.

RESIDENTIAL TTF ACTIVITIES

DEFINITION



Residential TTF activities encompass TTF entities with single and multi-unit (user) residences (e.g., homes, duplexes, apartments, etc.) located on TTF property with an attached or detached hangar. A hangar on TTF property that incorporates living quarters for permanent or long-term use is considered a residential TTF activity as well.

COMMON OPPORTUNITIES AND ISSUES

The complexity of residential TTF activities varies from airports with a single residential user (with a hangar) that utilizes a single TTF access point to airports with a large number of residential users that utilize multiple TTF access points. As a result, airport management and policymakers may interact with a single residential TTF entity, multiple residential TTF entities, or a homeowners association (HOA) that represents a large number of TTF entities engaged in residential TTF activities. The unique situation and/or circumstances at the airport need to be taken into account to properly assess, structure, and manage residential TTF activities.

Residential TTF activities have created opportunities for airports and local communities including increased utilization of the airport (and enhanced revenues for the airport sponsor); increasing the customer base for on-airport fixed base operators (FBOs) and specialized aviation service operators (SASOs) resulting in increased revenues for and economic viability of the FBOs and SASOs; and increased property tax base for the community.

Common issues relating to residential TTF activities include non-compatible land uses adjacent to the airport and non-aviation activities that may have an adverse impact on airport operations (e.g., playgrounds; vehicle, bicycle, and pedestrian activities; landscaping that attracts wildlife, etc.). Additionally, the logistics associated with the delivery of commercial aeronautical products and services to aircraft located on residential TTF property (e.g., fuel, aircraft maintenance, flight training, etc.) can be problematic without dedicated roadways (other than the taxiways facilitating TTF access) that can be utilized for refueling vehicles and other aviation ground support vehicles and equipment.

Airport management and policymakers may encounter issues with on-airport hangar lessees who take a position of “my hangar is my castle” and attempt to defend the “rights of the castle owner.” When a residence on TTF property is added to the equation, which many times is the single largest lifetime investment an individual or a family makes, the challenge of enforcing airport sponsor policies, standards, rules, regulations, and agreements can be exacerbated.

[It is important to note that recent federal obligations relating to residential TTF activities, among other prohibitions, restrictions, and guidance \(discussed in Chapter 2: Airport Sponsor Obligations\), prohibit new residential TTF activities at federally obligated commercial service and private reliever airports.](#)

Federal
Obligation

EXAMPLES

Examples of airports with residential TTF activities include Wittman Regional Airport (OSH) in Oshkosh, Wisconsin, which has one single-family residence with a single TTF access point and Erie Municipal Airport (EIK) in Erie, Colorado, which has approximately 110 single-family residences with multiple TTF access points. Additional examples of airports with residential TTF activities are provided in the following case study and in Appendix B: Airports with TTF Operations. The federally obligated airports with TTF operations identified in Appendix B were identified by the research team. The list is not intended to be a complete list of airports with TTF operations.

CASE STUDY

Independence State Airport – 7S5 (Airport) is a federally obligated airport located in the City of Independence, Oregon. The Airport is owned and operated by the State of Oregon Department of Aviation (ODA) and hosts one of the largest residential airparks in the United States consisting of approximately 200 homes (see **Figure 1-6**). ODA has TTF agreements with two separate HOAs. One HOA, Independence Airpark, received its first TTF agreement (in the form of a TTF access permit) in 1974. The other HOA, Independence North Park Annex Airpark, was permitted TTF access in the early 1990s.

Each residence is a member of one of the two HOAs. These HOAs, not the individual residents, have TTF agreements in place with the ODA. Currently, the revenues generated by TTF access fees, which are equivalent to the on-airport tiedown fees, are greater than all on-airport generated revenues for the ODA. Additionally, the aircraft located within the airpark help support several businesses located on-airport including two FBOs and a restaurant.

The design of the airpark is optimal in that vehicle traffic enters at the front of the residence via public roads and only aircraft can access the taxilanes/taxiways located at the rear of the residence, ensuring that aircraft, vehicles, and pedestrians do not mix.

ODA noted that the airpark positively impacts the community by providing an increased property tax base. It is estimated that approximately 75% of the property taxes generated for the City of Independence originate from the airpark. The residences are typically larger (3,000 to 6,000 square feet, excluding hangar space) than the residences located in the surrounding community. The residential TTF activities at the Airport represent a cooperative approach between the State, Polk County, City of Independence, the HOAs, airpark residents, on-airport businesses, and other users of the Airport to help ensure the Airport operates in a manner that protects the safety, utility, and efficiency of the Airport for the benefit of the public.

The complete case study on **residential TTF activities** at Independence State Airport is provided in Appendix C: TTF Operation Case Studies.



FIGURE 1-6: Independence State Airport

COMMERCIAL AERONAUTICAL TTF ACTIVITIES

DEFINITION



Commercial aeronautical TTF activities include any commercial activity, located on TTF property, that involves, makes possible, or is required for the operation of an aircraft, or which contributes to, or is required for conducting aircraft operations. Entities providing commercial aeronautical activities are commonly referred to as FBOs or SASOs. Activities commonly associated with commercial aeronautical TTF activities include:

- fueling products and services (e.g., full-service and/or self-serve aviation fuels – Jet A, Avgas, Mogas, etc.);
- aircraft storage facilities (e.g., apron, t-hangars, shade ports, executive hangars, community hangars, etc.);
- location based services (e.g., aircraft ground handling, passenger and crew services, etc.);
- technical products and services (e.g., inspection, repair, overhaul, refurbishment, and modification of airframes, powerplants, avionics, instruments, accessories, and propellers; sale of associated parts, etc.);
- flight services (e.g., flight instruction, aircraft rental/leasing, aircraft charter/management, air cargo, etc.);
- aircraft sales (e.g., new, used, brokered, etc.); and
- other specialized products and services (e.g., aircraft cleaning, painting, and upholstery; sightseeing; aerial photography; crop dusting; etc.).

COMMON OPPORTUNITIES AND ISSUES

The FAA's official position to "discourage" rather than "prohibit" commercial aeronautical TTF activities (except in the case of commercial aeronautical TTF activities associated with residential TTF properties) has caused some industry observers to argue that this reflects the FAA's tacit support for such TTF activities. Based on FAA guidance and decisions, it can be argued that the FAA does more than "discourage" commercial aeronautical TTF activities; the FAA is strongly opposed to commercial aeronautical TTF activities.

However, it is important to note that the FAA does recognize that, in some circumstances, TTF operations may be the only viable alternative to accommodate certain types of TTF activities when an airport is fully developed and no remaining land exists on-airport to accommodate such activities. Regardless of the position, there is no argument regarding the FAA's concern about airport sponsors maintaining compliance with the federal obligations that serve to protect the public investment in airports and ensure public access to and use of an airport.

The opportunities associated with commercial aeronautical TTF activities for airports and local communities include increased capacity relating to commercial aeronautical products, services, and facilities; increased property taxes from associated TTF property infrastructure and improvements; and additional jobs for the airport and the community. This is especially true at airports where sufficient land is not available to accommodate commercial aeronautical activities.

The primary issue related to commercial aeronautical TTF activities is protecting on-airport FBOs and SASOs, if present, by ensuring that economic parity exists (i.e., rents and fees and minimum standards for commercial aeronautical TTF activities are equal to or greater than those for on-airport FBOs and SASOs). Since TTF FBOs and SASOs are located on fee-simple property, these TTF entities may have an economic advantage over on-airport FBOs and SASOs. Best practice approaches for addressing the issue of economic parity between TTF and on-airport FBOs and SASOs are discussed in Chapter 6: Structuring TTF Operations.

As with residential TTF activities, the logistics associated with on-airport FBOs and SASOs providing commercial aeronautical products and services (e.g., fuel, aircraft maintenance, flight training, etc.) to aircraft located on commercial aeronautical TTF property can be an issue and needs to be addressed as a result. However, the opposite issue (i.e., TTF FBOs and SASOs providing commercial aeronautical products and services to on-airport aircraft) must also be addressed. An additional issue associated with commercial aeronautical TTF activities is the provision of commercial aeronautical activities to transient aircraft by TTF FBOs and SASOs and the collection of appropriate fees (including TTF access fees) from transient aircraft owners and operators. Some of these issues can be addressed by developing and implementing policies, standards, rules, and regulations and managing TTF operations accordingly (as discussed further in this guidebook).

EXAMPLES

Examples of commercial aeronautical TTF activities include FBOs at Port Columbus International Airport (CMH) in Columbus, Ohio (i.e., Landmark Aviation), and Ogden-Hinckley Airport (OGD) in Ogden, Utah (i.e., Kemp Jet Services), and SASOs at Wittman Regional Airport (OSH), in Oshkosh, Wisconsin (i.e., Basler Turbo Conversions, an aircraft maintenance company), and Philadelphia International Airport (PHL) in Philadelphia, Pennsylvania (i.e., United Parcel Service, an air cargo company). Additional examples of airports with commercial aeronautical TTF activities are provided in the following case study and Appendix B: Airports with TTF Operations. The federally obligated airports with TTF operations identified in Appendix B were identified by the research team. The list is not intended to be a complete list of airports with TTF operations.

CASE STUDY

St. Louis Regional Airport – ALN (Airport), located in Alton, Illinois, is a federally obligated airport owned and operated by the St. Louis Regional Airport Authority (Authority).

The TTF property at the Airport (see **Figure 1-7**) was purchased and developed in the late 1970s and consists of approximately 20 acres of land and 300,000 square feet of facilities – primarily hangar, office, and shop. The hangar was constructed adjacent to the Airport property line and has direct TTF access to an Airport owned/operated apron and the Airport's airside infrastructure.

Before West Star Aviation purchased the TTF property in the 2004/2005 timeframe, the Authority desired to purchase the property but could not obtain the necessary AIP funding. The current TTF agreement provides an opportunity for the Authority to acquire the TTF property should AIP funding become available.



FIGURE 1-7: St. Louis Regional Airport

The complete case study on **commercial aeronautical TTF activities** at St. Louis Regional Airport is provided in Appendix C: TTF Operation Case Studies.

NON-COMMERCIAL AERONAUTICAL TTF ACTIVITIES

DEFINITION



Non-commercial aeronautical TTF activities encompass TTF entities owning, leasing, or having the full and exclusive control of aircraft—for non-commercial purposes—located on and operated from TTF property. This includes individuals (who utilize aircraft for personal/recreational purposes) and companies (who utilize aircraft for purposes that are incidental or ancillary to a business such as providing transportation to company employees, customers, and others).

Non-commercial aeronautical TTF activities are typically represented by non-commercial aircraft storage facilities located on TTF property. Such aircraft storage facilities commonly range from a single hangar to multiple hangar developments and may include office and shop space to accommodate aircraft owner/operator flight department activities including non-commercial flight training of flight department personnel and non-commercial aircraft maintenance and repair activities of the TTF entity's aircraft. Further, such aircraft storage facilities may also include non-aeronautical office and customer space to accommodate the employees and customers associated with the commercial non-aeronautical activities of the TTF entity.

COMMON OPPORTUNITIES AND ISSUES

As with commercial aeronautical TTF activities, non-commercial aeronautical TTF activities can increase the capacity of an airport and increase property taxes for the community. Additionally, an existing or prospective employer in the area may make the development of TTF property for non-commercial aeronautical activities conditional on the development or expansion of facilities and/or creation of jobs in the community.

A non-commercial aeronautical TTF development being utilized strictly for aeronautical activities typically creates minimal operational issues. The primary issue arises when a non-commercial aeronautical TTF entity engages in commercial non-aeronautical activities on the TTF property (e.g., non-aeronautical office and customer space, etc.) as the employees and customers of the TTF entity are typically unfamiliar with airport and aircraft operations which, in turn, can create safety, utility, and efficiency issues for the airport—much like the guests of homeowners at a residential TTF property.

Another potential issue is the desire of a non-commercial aeronautical TTF entity to migrate into commercial aeronautical activities (i.e., lease a portion or all of the aircraft storage space to a third party). When aircraft storage is constructed on TTF property that can accommodate multiple aircraft or a TTF entity no longer owns or operates an aircraft, the TTF entity may desire to “recover costs” and lease “excess space” to third parties. While the TTF entity may not originally intend to commercially lease aircraft storage space, the presence of aircraft storage facilities on TTF property creates this opportunity, even if this commercial aeronautical activity is prohibited under a TTF agreement. If aircraft storage space is available on-airport, the TTF entity would be competing directly with the airport sponsor or on-airport FBOs or SASOs providing aircraft storage space.

The development and sale of aircraft hangar “condominiums” is another opportunity that can create an issue. With on-airport hangar development, the FBO or SASO is typically required to develop and maintain the infrastructure, improvements, and the facilities located on the leased premises and provide a minimum level of service to based customers. Conversely, the developer of TTF hangar facilities is typically in the business of developing facilities – much like the developer of a residential subdivision. Once most of the units are sold, the developer would typically prefer to transfer the management of the subdivision to an association. This “build and leave” approach shifts the burden of management to someone else, which, if not properly structured and managed, can create a variety of issues for airport management and policymakers.

EXAMPLES

Examples of non-commercial aeronautical TTF activities include a multiple hangar development for private entities at Driggs-Reed Memorial Airport (DIJ), in Driggs, Idaho; aviation facilities for a news station helicopter fleet (i.e., Channel 9 News) at Traverse City Airport (TVC), in Traverse City, Michigan; and multiple corporate flight department facilities at Centennial Airport (APA), in the Denver Metro Area, Colorado. Additional examples of airports with non-commercial aeronautical TTF activities are provided in the following case study and Appendix B: Airports with TTF Operations. The federally obligated airports with TTF operations identified in Appendix B were identified by the research team. The list is not intended to be a complete list of airports with TTF operations.

CASE STUDY

Scottsdale Airport – SDL (Airport), located in Scottsdale, Arizona, is a federally obligated airport owned and operated by the City of Scottsdale (City). The Scottsdale Airpark (Airpark), which is located adjacent to the Airport, consists of 119 privately owned commercial and non-commercial parcels (see **Figure 1-8**), most of which have TTF access to the Airport through six different TTF access points. Non-gated direct access to the Airport is also available, with the permission of the City, to seven additional parcels.

While the vision for the Airpark was originally focused on accommodating only non-commercial aeronautical TTF activities (dating back to 1968), due to limited on-airport development opportunities and economic and political pressures, the City allowed certain types of commercial aeronautical activities to occur in the Airpark. Additionally, the Airport is one of the few airports with TTF operations that permit self-fueling of aircraft on TTF property, rather than requiring all fueling services to be provided by an on-airport FBO.

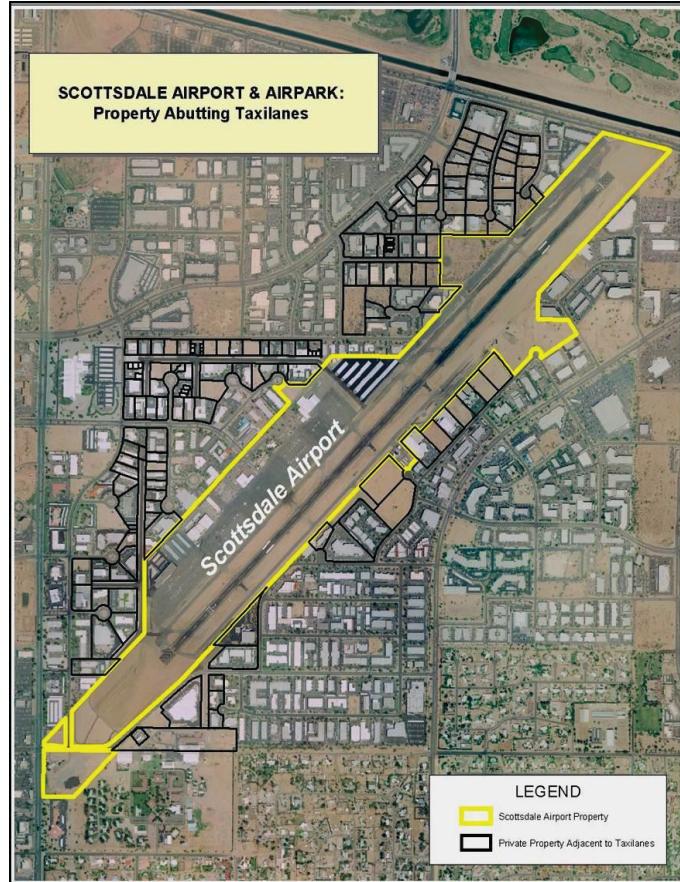


FIGURE 1-8: Scottsdale Airport

The push to convert non-commercial aeronautical TTF facilities to commercial aeronautical TTF facilities began to occur when hangars were built with “excess” capacity and the TTF entity desired to lease out the “excess” hangar capacity to offset capital and operating costs. Other early operational issues occurred when TTF hangar facilities with hangar doors opening directly onto a taxiway were developed, essentially guaranteeing that “staged” aircraft would block the taxilane/taxiway to the Airport.

As the economy ebbed and flowed and the need for non-aeronautical manufacturing or warehouse facilities increased, aircraft hangars that once accommodated aircraft storage became non-aeronautical manufacturing or warehouse facilities. Some facilities generated a substantial number of daily deliveries with large trucks which, because of the lack of cargo staging/handling areas, would take place on taxilanes/taxiways, blocking aircraft movement. One such facility became an assembly facility with many manual laborers who, on breaks, would stage “pickup” soccer games on the taxilane/taxiway and invariably delay aircraft movement from time to time.

Most airports do not have the history and/or the variety of TTF activities and the associated opportunities and issues as the Scottsdale Airport. Airport management and policymakers learned from past experiences and over the years, significant changes have been made to the City's (airport sponsor) regulatory measures and the TTF activities that have been permitted. In many respects, the City's current ordinances, plans, and codes and the Airport's policies, standards, rules, and regulations have served to establish what could be considered best practices – particularly in the area of structuring and managing TTF operations. As the Airport's TTF operations have evolved over time, stakeholder involvement—from an on-airport (commercial operator) and off-airport (TTF entities) perspective—has increased as well.

While the Airport has commercial and non-commercial aeronautical TTF activities, the complete case study on **non-commercial aeronautical TTF activities** at Scottsdale Airport is provided in Appendix C: TTF Operation Case Studies.

NON-AERONAUTICAL TTF ACTIVITIES

DEFINITION

 Non-aeronautical TTF activities encompass activities that do not involve, make possible, and/or are not required for the **operation** of aircraft or do not contribute to or are not required for the safety of aircraft operations. According to the FAA, non-aeronautical activities include the manufacturing of aircraft, aircraft parts, components, and accessories; ground based aviation training/education (excluding flight training in aircraft); and non-flying aircraft museums (excluding aircraft that are flown as part of museum activities). While some or all of these non-aeronautical TTF activities may require TTF access to an airport's airside infrastructure, the TTF access is secondary to the entity's primary activity and the FAA's investment in the airport's airside infrastructure to support aeronautical activities for the benefit of the public.

For an aircraft manufacturer, TTF access facilitates the delivery of aircraft parts for the manufacturing process, flight testing of experimental aircraft, and movement of completed aircraft for customer delivery. Aviation training/education facilities commonly utilize non-airworthy aircraft for ground based training/education purposes. Such aircraft are commonly flown into an airport and moved to the aviation training/education facility and dismantled, inspected, and/or utilized for demonstration purposes. Non-flying aircraft museums benefit from TTF access by allowing aircraft to be flown into an airport and taxied or towed to the museum's grounds and/or facilities for display.

COMMON OPPORTUNITIES AND ISSUES

Typically, the development of non-commercial aeronautical TTF activities is driven by the type and number of jobs that may be created at the airport and in the community as well as the property taxes that may be generated through the development of such TTF properties.

As with non-commercial aeronautical TTF activities, while the original intent of a non-aeronautical facility constructed on TTF property may have been for non-aeronautical activities, by combining excess capacity and TTF access to the airport, non-commercial aeronautical TTF entities may migrate toward other types of TTF activities, especially commercial aeronautical TTF activities. For instance, while a manufacturer may focus primarily on the manufacturing of aircraft and/or parts, the support of aircraft owners through the provision of aircraft maintenance may be a natural next step. Additionally, non-aeronautical aviation training/education facilities may migrate toward the provision of flight training in aircraft and non-aeronautical museums may migrate toward commercial aircraft storage. To eliminate migration and associated issues, language prohibiting specific types of TTF activities should be included in the TTF agreement.

Best Practice

EXAMPLES

Examples of non-aeronautical TTF activities include an aircraft manufacturer (i.e., Boeing) at King County International Airport (BFI), in Seattle, Washington, Renton Municipal Airport (RNT), in Renton, Washington, and Snohomish County Airport (PAE), in Everett Washington. Additional examples of airports with non-aeronautical TTF activities are provided in the following case study and Appendix B: Airports with TTF Operations. The federally obligated airports with TTF operations identified in Appendix B were identified by the research team. The list is not intended to be a complete list of airports with TTF operations.

CASE STUDY

Savannah/Hilton Head International Airport—SAV (Airport), located in Savannah, Georgia, is a federally obligated airport owned and operated by the Savannah Airport Commission (Commission). In 1967, the Commission sold 110 acres of airport land to Grumman Aircraft Engineering Company (now known as Gulfstream Aerospace) to attract jobs and investment associated with the company's civil aircraft production (see **Figure 1-9**). The original workforce grew from 100 to over 1,700 employees within a few years. Gulfstream Aerospace now employs more than 5,000 employees on the TTF property.

In addition to the TTF property owned by Gulfstream Aerospace, the company has leased over 300 additional acres of land on the Airport and has invested millions of dollars into Airport infrastructure and improvements to expand the company's manufacturing; maintenance, repair, and overhaul (MRO); and completion capabilities. In total, Gulfstream Aerospace employs over 11,000 employees on and off the Airport. Gulfstream also has a lease with FlightSafety International for land on the TTF property for a training facility for Gulfstream's customers. This facility alone generates approximately 50,000 annual room nights at hotels located on the Airport.

The complete case study on **non-aeronautical TTF activities** at Savannah/Hilton Head International Airport is provided in Appendix C: TTF Operation Case Studies.



FIGURE 1-9: Savannah/Hilton Head International Airport

GOVERNMENTAL/MILITARY TTF ACTIVITIES

DEFINITION



Governmental/military TTF activities typically encompass federal and state government and military agencies and institutions occupying TTF property to engage in aeronautical and non-aeronautical activities which primarily benefit the airport, the community, and/or national defense. These agencies

and institutions include the U.S. Coast Guard, the U.S. Forest Service, the U.S. National Guard, U.S. military branches (e.g., Navy, Air Force, Marines, Army, etc.), public service agencies, and public educational institutions.

COMMON OPPORTUNITIES AND ISSUES

Governmental/military TTF operations can be an asset for an airport and local community for many reasons. For example, these types of TTF operations are usually monitored closely by the governmental/military entity, often with internal security measures and personnel, which can enhance the level of safety and security for the TTF operations, the airport, and the community. Additionally, these entities can complement the existing safety and security measures of an airport and provide support in the event of an emergency such as a security breach or aircraft accident or incident. Governmental/military entities with TTF operations are usually associated with a public service (e.g., the U.S. Forest Service suppressing fires, the U.S. Coast Guard conducting search and rescue missions, etc.) and the presence of these types of entities can enhance the safety of the community and the region. Further, governmental/military entities associated with TTF operations commonly employ (directly) large numbers of community residents and/or create (indirectly) ancillary jobs in the community.

While these types of TTF operations usually bring great benefits to the airport and the community, such operations may not enter into TTF agreements with an airport sponsor or pay TTF access fees, thereby providing minimal or no monetary benefit to the airport sponsor. These types of TTF operations may have been established many years ago and may continue to exist today based on verbal TTF agreements. Although the majority of these types of TTF operations may not support the airport financially, governmental/military entities are generally welcome based on the benefits such entities provide and/or the contribution such entities make to the airport and the community.

EXAMPLES

Examples of governmental/military activities include a U.S. Coast Guard base located at the Traverse City Airport (TVC) in Traverse City, Michigan, and a U.S. Forest Service base located at the Redding Municipal Airport (RDD) in Redding, California. Additional examples of airports with governmental/military TTF activities are provided in the following case study and Appendix B: Airports with TTF Operations. The federally obligated airports with TTF operations identified in Appendix B were identified by the research team. The list is not intended to be a complete list of airports with TTF operations.

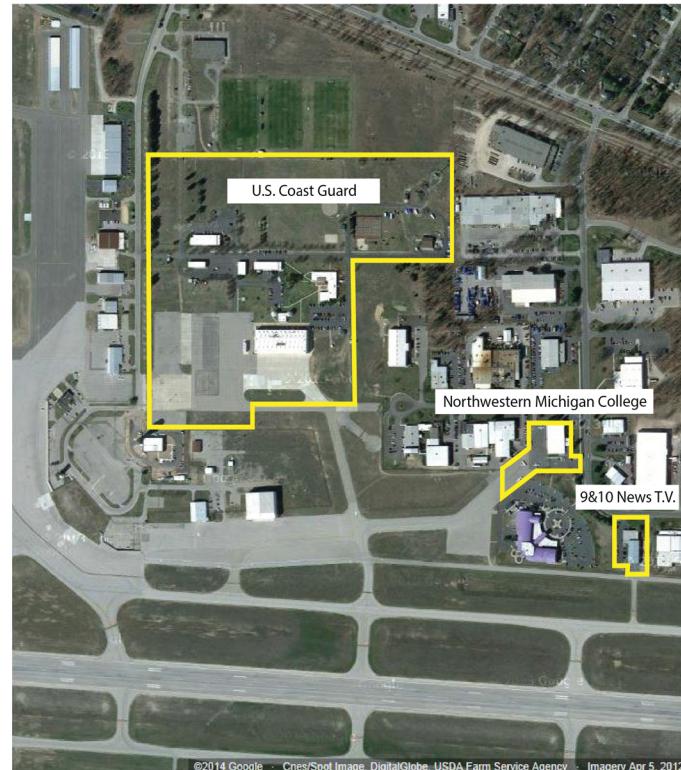


FIGURE 1-10: Cherry Capital Airport

CASE STUDY

The Cherry Capital Airport (TVC), located in Traverse City, Michigan, is a federally obligated airport which is owned and operated by the Northwestern Regional Airport Commission.

The Airport has three TTF operations (see **Figure 1-10**), two of which are governmental/military TTF activities: the U.S. Coast Guard operates an Air Station for helicopters to conduct search and rescue missions for marine traffic on Lake Michigan, Lake Superior, and Lake Huron and the Northwestern Michigan College Aviation Program conducts student pilot training at the Airport. The third is a non-commercial aeronautical TTF activity, a local television station (i.e., Channel 9 News).

A more detailed case study on **governmental/military TTF activities** at Cherry Capital Airport is provided in Appendix C.

1.7 WRAP-UP

As an introduction to this guidebook, this chapter has provided airport management and policymakers with background information on TTF operations, including:

- **Purpose of this guidebook** – This guidebook and accompanying resources and tools are designed to help airport management and policymakers of federally obligated airports assess, structure, and manage existing, proposed, and future TTF operations. Additionally, this guidebook can be beneficial to other parties who want to gain a better understanding of how an airport sponsor may assess, structure, and manage TTF operations.
- **Definition of TTF operations** – TTF operations occur when an airport sponsor grants an entity ground access by an aircraft across the airport's property boundary to the airport's airside infrastructure (commonly through-the-fence) and permission to engage in associated activities from property adjacent to the airport.
- **Parties having a direct interest in TTF operations** – includes FAA, SAO, airport sponsor, and TTF entity.
- **Types of TTF activities** – includes residential, commercial aeronautical, non-commercial aeronautical, non-aeronautical, and governmental/military activities.

Additionally, this chapter defined other key TTF terms (e.g., TTF property, TTF access, TTF activities, TTF entity, and TTF agreement), provided an overview of this guidebook and each chapter, discussed how to use this guidebook, identified examples of each type of TTF activity, and introduced case studies for each type of TTF activity.

CHAPTER TWO

AIRPORT SPONSOR OBLIGATIONS

- 2.1 Introduction
- 2.2 Federal Statutes
- 2.3 Airport Sponsor Assurances
- 2.4 FAA Policies and Guidance
- 2.5 State Statutes, Assurances, Policies, and Guidance
- 2.6 Wrap-Up

2.1 INTRODUCTION

To be eligible for federal or state funding, airport sponsors of federally obligated airports must maintain compliance with numerous obligations including statutes, regulations, assurances, executive orders, policies, and guidance. This is one of the ways federal and state agencies regulate the planning, development, operation, and management of airports and ensure that the safety, utility, and efficiency of airports are being maintained for the benefit of the public.

As discussed in Chapter 1: Introduction, this guidebook is designed to help airport management and policymakers of federally obligated airports assess, structure, and manage TTF operations. If an airport was not conveyed to an airport sponsor as federal surplus property; an airport sponsor has not received AIP funds; and/or an airport sponsor is no longer required to maintain compliance with certain federal obligations due to foregoing AIP funds for a specific period of time, then this chapter and other portions of this guidebook relating specifically to compliance may not apply. It is important to note, however, if an airport has received AIP funds, the obligations associated with exclusive rights, revenue use, and civil rights continue as long as an airport is an airport.

While this chapter addresses the requirements for complying with obligations related to TTF operations, the approaches discussed herein are consistent with best practices and provided within the context of (1) contributing to the planning, development, operation, and management of an airport, (2) ensuring the safety, utility, and efficiency of the airport for the benefit of the public and (3) assisting with assessing, structuring, and managing TTF operations.

It is significant to note, that if an airport sponsor of a federally obligated airport is found non-compliant with its federal or state obligations, eligibility for future grant funds may be suspended and/or payment funds for open grants may be withheld. This could create significant ramifications on the airport sponsor and airport.

Who has the authority to regulate TTF Operations?

The FAA wants to ensure that airport sponsors are maintaining compliance with federal obligations to protect the public's investment in airports.

In addition to protecting the public's investment in airports, state regulators may or may not support TTF operations (depending on the situation and/or circumstances) and may or may not desire more autonomy in regulating TTF activities.

Airport sponsors may believe that local control of TTF operations is most appropriate as federal statutes, assurances, policies, and/or guidance (or a one-size-fits-all approach) may not address the uniqueness of each airport.

Conversely, there are SAOs and airport sponsors who would rather point to a federal statute, assurance, policy, and/or guidance that specifically restricts or prohibits TTF operations.

James Coyne, Former President of the National Air Transportation Association, stated, “If we want to have a national system of public use airports then we need a national system of rules and regulations to promote, preserve, and protect them.”

2.2 FEDERAL STATUTES

The publication of FAA Order 5190.6B, Airport Compliance Manual (Order 5190.6B) and FAA's Draft Compliance Guidance Letter 2009-1, TTF and On-Airport Residential Access to Federally Obligated Airports, which prohibited all new residential TTF activities at federally obligated airports, spurred a national discussion on TTF operations (in general) and residential TTF activities (in particular). Interested parties including TTF entities, airport sponsors, aviation industry associations, SAOs, and federal and state legislators and regulators joined the discussion. Ultimately, through the passage of federal legislation, the FAA changed policy and guidance on residential TTF activities (discussed in this chapter).



Numerous

In **Figure 2-1**, the FAA and congressional actions that eventually led to the passage of Section 136, Agreements Granting TTF Access to General Aviation Airports, of the FAA Modernization and Reform Act of 2012 (Section 136) and revision of the FAA's policy and guidance on residential TTF activities are summarized.



Figure 2-1: FAA and Congressional Actions

September 30, 2009	Order 5190.6B, Airport Compliance Manual, Sec. 12.7, 20.3, and 20.4
October 2009	Draft Compliance Guidance Letter 2009-1, TTF and On-Airport Residential Access to Federally Obligated Airports
March 10, 2010	H.R. 4815, Community Airport Access and Protection Act of 2010 (introduced)
September 9, 2010	Notice of Proposed Policy Regarding Access to Airports from Residential Property; Federal Register, Vol. 75, No. 174
September 22, 2010	Hearing before the Committee on Transportation and Infrastructure (House of Representatives, 111th Congress) on Residential TTF Agreements at Public Airports.
March 18, 2011	Interim Policy Regarding Access to Airports from Residential Property; Federal Register, Vol. 76, No. 53
March 18, 2011	Compliance Guidance Letter 2011-1, FAA Implementation of Interim Policy Regarding Access to Airports from Residential Property and Review of Access Arrangements.
February 14, 2012	FAA Modernization and Reform Act of 2012, Pub. Law 112-95, Sec. 136

Section 136 states:

- "... a sponsor of a general aviation airport [airport sponsor] shall not be considered to be in violation of this subtitle, or to be in violation of a grant assurance [Airport Sponsor Assurances] made under this section or under any other provisions of law as a condition for the receipt of Federal financial assistance for airport development, solely because the sponsor enters into an agreement that grants to a person that owns residential real property adjacent to or near the airport access to the airfield of the airport for the following: (A) Aircraft of the person (B) Aircraft authorized by the person."
- A TTF agreement "... between an airport sponsor and a property owner (or an association representing such property owner) shall be a written agreement that prescribes the rights, responsibilities, charges, duration, and other terms the airport sponsor determines are necessary to establish and manage the airport sponsor's relationship with the property owner."
- A TTF agreement "... between an airport sponsor and a property owner (or an association representing such property owner) shall require the property owner, at minimum:
 - to pay airport access charges that, as determined by the airport sponsor, are comparable to those charged to tenants and operators on-airport making similar use of the airport;
 - to bear the cost of building and maintaining the infrastructure that, as determined by the airport sponsor, is necessary to provide aircraft located on the property adjacent to or near the airport access to the airfield of the airport;
 - to maintain the property for residential, non-commercial use for the duration of the agreement;
 - to prohibit access to the airport from other properties through the property of the property owner; and
 - to prohibit any aircraft refueling from occurring on the property."
- The laws established by this statute "... shall apply to an agreement between an airport sponsor and a property owner (or an association representing such property owner) entered into before, on, or after the date of enactment of this Act [statute]."

In essence, Section 136 allows an airport sponsor of a federally obligated airport (**excluding airport sponsors of commercial service airports or private, public use airports**) to permit residential TTF activities without being in violation of the airport sponsor's obligations (overall) and the assurances (more specifically). However, the TTF agreement used by the airport sponsor must contain the specific terms and conditions stipulated in the federal statute.

Federal Obligation

It is important to note that Section 136 does not require airport sponsors to permit residential TTF activities – airport sponsors can prohibit TTF operations and any type of TTF activity without being in violation of the airport sponsor's obligations.

More recently, the FAA has amended Assurance 5 (Preserving Rights and Powers) and Assurance 29 (Airport Layout Plans) and revised and finalized policy and guidance (discussed further in this chapter) to meet the requirements of Section 136.

While this section focused on a single federal statute specifically related to TTF operations (i.e., Section 136) there are numerous federal statutes having requirements that may be relevant to TTF operations that need to be understood by airport management and policymakers of federally obligated airports. These federal statutes and the associated obligations are discussed in detail in Order 5190.6B.



2.3 AIRPORT SPONSOR ASSURANCES

APPLICABILITY AND DURATION

Airport sponsors who have received public funding (i.e., AIP funding) and/or surplus and/or non-surplus federal property are obligated to maintain compliance with federal obligations – known, collectively, as the Airport Sponsor Assurances (or assurances). In addition to the obligations promulgated through federal statutes, the FAA has statutory authority to prescribe additional obligations for airport sponsors (see Title 49 USC § 47107(g)).



As of the publication of this guidebook, there were 39 assurances (see Appendix A: Airport Sponsor Assurances) that apply to airport planning, development, and noise compatibility projects. An airport sponsor of a federally obligated airport is required to comply with the assurances for the useful life of the facilities developed, equipment acquired, or project items installed in the facilities, not to exceed 20 years. However, an airport sponsor must remain compliant with Assurance 23 (Exclusive Rights), Assurance 25 (Airport Revenues), and Assurance 30 (Civil Rights) as long as the federally obligated airport remains an airport. Further, federal obligations extend into perpetuity for land acquired using AIP funds.

Federal Obligation

ASSURANCES APPLICABLE TO TTF OPERATIONS

The FAA has stated that TTF operations may impede an airport sponsor's ability to comply with the assurances. The FAA has articulated this position on TTF operations in Order 5190.6B, Sections 12.7, 20.3, and 20.4 (discussed in this chapter); by the policy and guidance letter regarding access to airports from residential property (discussed in this chapter); and in several FAA decisions pursuant to 14 CFR Part 16 (discussed in Chapter 3: Legal Interests and Principles).



Airport sponsors with existing or proposed TTF operations or considering future TTF operations should take all steps necessary to comply with the assurances including, but not limited to, each of the assurances discussed in this section. Airport sponsors also need to recognize that the presence of TTF operations can directly impact the sponsor's ability to comply with the assurances. However, it is significant to note that the FAA has stated clearly that a TTF entity is not entitled to certain protections provided by the assurances to on-airport operators, tenants, and users.

ASSURANCE 5 (PRESERVING RIGHTS AND POWERS)

Assurance 5 stipulates that an airport sponsor “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.”

Federal Obligation

Assurance 5 was amended by the FAA on April 10, 2012 to meet the requirements of Section 136. Assurance 5(g) states that:

- “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.”

Therefore, regardless of the type of TTF activity, it is important that airport sponsors develop, implement, and enforce the necessary ordinances, codes, policies, standards, rules, and regulations (discussed in Chapter 4: Airport Planning, Management, and Compliance Tools) to help preserve the airport sponsor's rights and powers.

Best Practice

ASSURANCE 19 (OPERATION AND MAINTENANCE)

Assurance 19 stipulates that a sponsor must ensure that “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...” Most likely, TTF operations will impact airport operations and maintenance in some fashion.

Federal Obligation

Therefore, it is imperative that airport sponsors plan, develop, operate, and manage the airport for the benefit of the public in a way that will not adversely affect the safety, utility, or efficiency of the airport in order to remain compliant with this assurance.

ASSURANCE 20 (HAZARD REMOVAL AND MITIGATION)

Federal Obligation

Assurance 20 stipulates that an airport sponsor must assure that the “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” in compliance with 14 CFR Part 77 – Safe, Efficient Use, and Preservation of the Navigable Airspace (Part 77). This includes potential hazards that may (or could) exist on TTF property.



Therefore, it is critical that airport sponsors protect the airport’s airspace on and off the airport. A number of mechanisms such as ordinances, zoning codes, building codes, and the TTF agreement (discussed further in Chapter 4: Airport Planning, Management, and Compliance Tools) can be utilized to achieve this objective.

ASSURANCE 21 (COMPATIBLE LAND USE)

Federal Obligation

Assurance 21 stipulates that airport sponsors are required to “take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to... the airport to activities and purposes compatible with normal airport operations...”

In Chapter 4: Airport Planning, Management, and Compliance Tools, several tools that airport sponsors can use to maintain compliance with Assurance 21, including airport sponsor ordinances, zoning codes, and building codes, are discussed.

ASSURANCE 22 (ECONOMIC NONDISCRIMINATION)

Federal Obligation

Assurance 22 stipulates that an airport sponsor must “make the airport available as an airport for public use on reasonable terms without unjust discrimination to all types, kinds, and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.”

In essence, an airport sponsor must maintain a rents and fees schedule that does not unjustly discriminate against on-airport entities that are similarly situated to a TTF entity. However, it is important to note that TTF entities are not protected by Assurance 22 or any other assurance for that matter. Therefore, the FAA will reject any complaints filed by a TTF entity under 14 CFR Part 13 (Part 13) or 14 CFR Part 16 (Part 16) alleging unreasonableness or unjust discrimination in rents or fees associated with TTF operations.

While the FAA has historically rejected any complaints filed by a TTF entity, the FAA has heard complaints from TTF entities that have a physical presence on a federally obligated airport (i.e., have leased space on-airport) as well. Further, complaints can be filed by on-airport operators, tenants, and users relating to the way airport sponsors structure and manage TTF operations.

ASSURANCE 23 (EXCLUSIVE RIGHTS)

Assurance 23 stipulates that an airport sponsor must not permit an “exclusive right for the use of the airport by any person providing, or intending to provide aeronautical services to the public.”

Federal
Obligation

However, as with Assurance 22, TTF entities are not protected by Assurance 23. As such, the FAA will reject any complaints filed by a TTF entity under Part 13 or Part 16 alleging exclusive rights violations.

While the FAA has historically rejected any complaints filed by a TTF entity, the FAA has heard complaints from TTF entities that have a physical presence on a federally obligated airport as well. Further, complaints can be filed by on-airport operators, tenants, and users relating to the way airport sponsors structure and manage TTF operations.

ASSURANCE 24 (FEE AND RENTAL STRUCTURE)

Assurance 24 stipulates that an airport sponsor shall “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.”

Federal
Obligation

Therefore, airport sponsors are obligated to establish rents (when appropriate) and/or fees for TTF operations that make the airport as self-sustaining as possible. This is discussed further in Chapter 5: Assessing TTF Operations.

ASSURANCE 29 (AIRPORT LAYOUT PLAN)

Assurance 29 requires an airport sponsor to “keep up to date at all times an airport layout plan of the airport showing:

Federal
Obligation

- 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;
- the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and
- the location of all existing and proposed non-aviation areas and of all existing improvements thereon...”

Further, the airport 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.”

Assurance 29 was amended by the FAA to meet the requirements of Section 136. Assurance 29(a) states that the airport layout plan (ALP) plan must show “... all proposed and existing access points used to taxi aircraft across the airport’s property boundary.” The FAA has indicated that temporary designation of TTF access points on the ALP, through a pen and ink change, is acceptable until the ALP is formally updated. If an ALP is not up-to-date at the time an airport sponsor submits a request for AIP funds, the FAA may deny and/or withhold funds until the ALP is compliant with Assurance 29.

Therefore, airport sponsors must keep the ALP up-to-date including depicting any changes to the airport’s boundaries, infrastructure, improvements, land uses, and TTF access points (if any).

2.4 FAA POLICIES AND GUIDANCE

FAA policies are designed to meet the requirements of federal statutes. FAA guidance provides direction to FAA personnel for meeting the requirements of federal obligations. While FAA guidance is normally provided for the benefit of FAA personnel, airport management and policymakers can benefit as well by gaining a thorough understanding of an airport sponsor's federal obligations.

The following section provides an overview of the significant provisions of FAA policy and guidance relating to TTF operations. This overview is not intended to serve as a substitute for reviewing each of the specific FAA policy and guidance documents (which can be found at www.faa.gov) as such a review would provide the opportunity to gain a full understanding of FAA policy and guidance relating to TTF operations.

The FAA's policy and guidance on TTF operations are not new. In fact, over the past 20 years there have been a number of FAA policy and guidance documents that influence the way TTF operations should be assessed, structured, and managed by airport management and policymakers. After the passage of the FAA Modernization and Reform Act of 2012, the FAA revised and updated the federal obligations associated with residential TTF activities, as summarized in **Figure 2-2**.



Figure 2-2: Federal Obligations on Residential TTF Activities

February 14, 2012	FAA Modernization and Reform Act of 2012, Pub. Law 112-95, Sec. 136
April 13, 2012	Amendment of Airport Improvement Program (AIP) Grant Assurances 5(g) and 29(a); Federal Register, Vol. 77, No. 72
July 30, 2012	Notice of Proposed Policy Regarding Access to Airports from Residential Property; Federal Register, Vol. 77, No. 146
July 2012	Draft Compliance Guidance Letter 2012-X, FAA Review of Existing and Proposed Residential TTF Access Agreements
July 16, 2013	Policy Regarding Access to Airport from Residential Property; Federal Register, Vol. 78, No. 136
July 16, 2013	Compliance Guidance Letter 2013-01, FAA Review of Existing and Proposed Residential TTF Access Agreements

After an extended review of the FAA's draft policy and guidance, congressional legislation was drafted, a congressional hearing was held, a statute was enacted, and the FAA prepared the additional policy and guidance which exists today.

FAA POLICY AND GUIDANCE

POLICY REGARDING ACCESS TO AIRPORTS FROM RESIDENTIAL PROPERTY

The FAA published the final FAA Policy Regarding Access to Airports from Residential Property in the *Federal Register* (Vol. 78, No. 136, Page 42419) on July 16, 2013. This FAA policy, which is based on federal statutes, addresses TTF access to a federally obligated airport from adjacent property used for residential TTF activities.



This is the only FAA policy focused on residential TTF activities. While it is important to note that the FAA is unable to directly apply the provisions of Section 136 to other types of TTF activities, the FAA is authorized to enforce all federal obligations pertaining to the planning, development, operation, and management of a federally obligated airport. Further, this policy provides valuable insight into how the FAA may view other TTF operations, TTF activities, and TTF access at federally obligated airports.

The following summary of the residential TTF policy highlights the FAA's primary positions on TTF operations, and although the policy applies only to residential TTF activities, icons are used to indicate potential application to other types of TTF activities. A number of the policy's provisions are discussed in more detail in Chapter 5: Assessing TTF Operations, Chapter 6: Structuring TTF Operations, and Chapter 7: Managing TTF Operations.



On-airport development used exclusively for the facilitation of TTF operations (i.e., infrastructure and/or improvements) is considered **private-use** (i.e., non-public use) and is ineligible for AIP funding. This is consistent with the restrictions conveyed in FAA Order 5100.38C, Airport Improvement Program Handbook and the definition of "airport development" utilized in Title 49, U.S.C. 47102(3).



The FAA has not defined "adjacent to" or "near the airport." These terms have been used to describe TTF property in Section 136. The FAA provides latitude to the airport sponsor to determine what constitutes TTF property. However, residential TTF property is prohibited from being utilized by other property owners to gain access to the airport. This does not prohibit the use of a single or multiple TTF access points by multiple TTF entities. The intent of the prohibition is to limit TTF access to only those entities who have a TTF agreement with the airport sponsor.



TTF entities, not permitted to engage in commercial aeronautical TTF activities, are prohibited from allowing third party entities to offer commercial aeronautical services from the TTF property.



While the FAA does not prohibit an airport sponsor from permitting commercial aeronautical TTF activities, airport sponsors are discouraged from entering into TTF agreements associated with commercial aeronautical TTF activities (including aircraft storage) as such activities compete with and could have an adverse impact on-airport FBOs and/or SASOs. The FAA encourages plans to relocate commercial aeronautical TTF activities onto the airport.



The assurances have been interpreted to convey certain rights to aeronautical users; however, this is not the primary purpose of the assurances. According to the FAA, the assurances are designed to ensure that the public's investment in federally obligated airports will be fully utilized to benefit the civil aviation system. When negotiating a TTF agreement with an entity wishing to protect its property rights, the FAA expects that an airport sponsor will carefully weigh its federal obligations against the desires of the private entity and assess, structure, and manage TTF operations accordingly.

Airport sponsors establishing TTF agreements for residential TTF activities must provide evidence of compliance with federal obligations before establishing a TTF access point. This does not limit the ability of an airport sponsor to enter into a TTF agreement before obtaining the FAA's approval or establishing a TTF access point. Evidence should be provided for all other types of TTF activities as well.



Commercial service airports that do not have existing residential TTF activities are prohibited from permitting new residential TTF activities.



TTF entities associated with residential TTF activities are prohibited from engaging in commercial aircraft fueling activities on the TTF property. However this prohibition does not prohibit an airport sponsor from allowing non-commercial self-fueling activities by the TTF entity in compliance with relevant, reasonable, and appropriate ordinances, policies, standards, rules, and regulations.



TTF entities should bear the cost of planning, developing, and maintaining the infrastructure and improvements associated with TTF access points, as deemed necessary by the airport sponsor to provide access to the airport's airside infrastructure.

Airport sponsors should require TTF entities to grant the airport sponsor a perpetual aviation easement for overflight including takeoffs and landings at the airport.

Airport sponsors that have established a policy to permit TTF operations should make best efforts to restrict future use of TTF properties to compatible land uses (e.g., aviation-related TTF activities and not residential TTF activities) through land use planning, zoning, and/or mandatory deed restrictions.

Airport sponsors should develop a process for educating TTF entities and require that TTF entities educate all users of the TTF property about the rights, responsibilities, and obligations associated with the TTF agreement.

ORDER 5190.6B – AIRPORT COMPLIANCE MANUAL (GUIDANCE)

The FAA published Order 5190.6B on September 30, 2009. While Order 5190.6B provides guidance for complying with federal obligations, it also provides valuable insight into how the FAA views TTF operations at federally obligated airports. As such, the following guidance from Sections 12.7, 20.3, and 20.4 of Order 5190.6B is relevant for assessing, structuring, and managing all types of TTF activities.



It is significant to note that Order 5190.6B also includes guidance on residential TTF activities. However, the guidance provided has been superseded by Compliance Guidance Letter 2013-1: FAA Review of Existing and Proposed Residential TTF Access Arrangements, which is discussed in the following section.

ASSESSING

TTF operations can place an “encumbrance” on the airport property and reduce the airport sponsor’s ability to meet federal obligations.

TTF operations may be inconsistent with TSA security requirements.

The federal obligation to make an airport available for the use and benefit of the public does not impose any requirement on the airport sponsor to permit TTF operations.

Airport sponsors should seek FAA review of all TTF operations to ensure compliance with federal obligations. As a general principle, the FAA does not support TTF operations.



As a general principle, the FAA does not support commercial aeronautical TTF operations when a TTF entity will be competing with on-airport FBOs and/or SASOs. Exceptions may be considered by the FAA when the TTF agreement and the airport sponsor’s policies, standards, rules, and regulations for the airport ensure that the airport sponsor will receive equitable compensation through rents (when applicable) and fees for permitting TTF access to the airport’s airside infrastructure and engaging in commercial aeronautical TTF activities.



The FAA makes it clear that the agency will not approve the release of airport land for TTF operations if the land can still be used for aeronautical purposes. Therefore, if a land release is related to residential, commercial aeronautical, non-commercial aeronautical, or governmental/military TTF activities, the FAA will deny the request.

STRUCTURING AND MANAGING



TTF agreements should require that TTF entities meet all of the applicable federal obligations the airport sponsor is required to meet.

Airport sponsors are entitled to seek recovery of airport sponsor (not AIP) capital and operating expenditures associated with use of the airport's airside infrastructure. Therefore, airport sponsors should assess rents (when applicable) and fees on TTF entities for permitting TTF access to airside infrastructure to equalize any advantage that may be created between on-airport and TTF entities. It is important to note that airport sponsors may assess any level of fees deemed appropriate for TTF operations as long as the fees are not less than the fees for on-airport entities.

Airport sponsors may need to incorporate special safety controls and procedures relating to TTF access to ensure that the airport's safety, utility, or efficiency will not be adversely affected. The airport sponsor must retain the rights to intervene and take action to address and resolve all safety, utility, or efficiency issues relating to TTF operations.

Significant guidance is provided in Order 5190.6B relating to TTF agreements. This guidance will be discussed in Chapter 6: Structuring TTF Operations. The FAA's guidance is provided to help airport sponsors maintain compliance with federal obligations as discussed in this chapter and Chapter 5: Assessing TTF Operations.

COMPLIANCE GUIDANCE LETTER 2013-1

In conjunction with the final FAA Policy Regarding Access to Airports from Residential Property, which was published in the *Federal Register* (Vol. 78, No. 136) on July 16, 2013, the FAA published Compliance Guidance Letter 2013-1: FAA Review of Existing and Proposed Residential TTF Access Arrangements (CGL). This CGL provides guidance to FAA personnel for reviewing existing and proposed residential TTF agreements.



As with the FAA policy, this CGL is focused on residential TTF activities. This CGL also provides valuable insight into how the FAA may review TTF operations and agreements for other types of TTF activities. In this CGL, the FAA indicates that a TTF operation has the potential to adversely affect the rights and powers of the airport sponsor and that it has the potential to impact the safety, utility, and efficiency of an airport as well. Therefore, the FAA can request certain information, data, and/or documentation during its review of TTF operations to assure compliance with federal obligations. This information, data, and/or documentation is discussed in Chapter 5: Assessing TTF Operations.

2.5 STATE STATUTES, ASSURANCES, POLICIES, AND GUIDANCE

Due to the number of states, each and every state statute, assurance, policy, or guidance pertaining to TTF operations has not been identified in this guidebook. It is significant to note, however, that the research conducted for this guidebook revealed that very few states have statutes, assurances, policies, or guidance pertaining specifically to TTF operations.

One of the states that has addressed TTF operations is the State of Oregon. Two Oregon State Senate Bills [that were codified as Oregon Revised Statutes (ORS) 836.640 and 836.642] were passed in 2005 and revised in 2009 to encourage the appropriate development of TTF operations. ORS 836.640 provides the authority to the Oregon Department of Aviation (ODA) to establish a TTF pilot program at up to six rural airports “to encourage development of TTF operations designed to promote economic development by creating family wage jobs, by increasing local tax bases and by increasing financial support for rural airports.”

It is significant to note that this state statute is limited to TTF operations at rural airports in Oregon. Also, the State of Oregon, through the ODA, is the owner and operator of 28 airports located throughout the state, including Independence State Airport and Aurora State Airport, both of which have TTF operations.

The State of Oregon and ODA have supported the development of residential airparks and TTF operations at several rural airports in Oregon. While the FAA has had concerns regarding the safety of residential TTF activities, the ODA has worked closely with the FAA to ensure that TTF operations are being conducted safely, that TTF access fees are being charged, and that the state and federal obligations are being met at each airport.

2.6 WRAP-UP

This chapter discussed how federal and state obligations help ensure that federally obligated airports are planned, developed, operated, and managed for the benefit of the public in a way that will not adversely affect the safety, utility, or efficiency of an airport.

Additionally, the key obligations created by certain federal statutes, assurances, policies, and guidance relating to TTF operations (in general) and residential TTF activities (in particular) were identified and summarized including:

- **Federal Statute** – Section 136 of the FAA Modernization and Reform Act of 2012
- **Airport Sponsor Assurances** – 39 assurances as of April 2012
- **FAA Policy** – Policy Regarding Access to Airports from Residential Property
- **FAA Guidance** – Order 5190.6B, Airport Compliance Manual and Compliance Guidance Letter 2013-1: FAA Review of Existing and Proposed Residential TTF Access Arrangements

The discussion of this information was included in this chapter to demonstrate to airport management and policymakers the importance and relevance of federal and state statutes, assurances, policies, and guidance pertaining specifically to assessing (discussed in Chapter 5: Assessing TTF Operations), structuring (discussed in Chapter 6: Structuring TTF Operations), and managing TTF operations (discussed in Chapter 7: Managing TTF Operations).

CHAPTER THREE

LEGAL INTERESTS AND PRINCIPLES

- 3.1 Introduction
- 3.2 Legal Interests
- 3.3 Legal Principles Established Through FAA Decisions
- 3.4 Legal Principles Established Through Court Rulings
- 3.5 Wrap-Up

3.1 INTRODUCTION

In addition to federal and state obligations (discussed in Chapter 2: Airport Sponsor Obligations), legal interests and principles pertaining to TTF operations have been established through a multitude of FAA decisions and court rulings.

Beyond the FAA decisions and court rulings discussed in this chapter, the U.S. Constitution (Constitution) protects the rights of people to freely acquire, use, and dispose of property. The Fifth Amendment of the Constitution states “... nor shall private property be taken for public use, without just compensation.” Further, the Fourteenth Amendment of the Constitution states “... nor shall any State deprive any person of life, liberty, or property, without due process of law...” While the U.S. Supreme Court has taken steps to better define the Fifth and Fourteenth Amendments as it pertains specifically to property rights, the U.S. Congress has not adopted significant legislation addressing property rights.



In addition to the Constitution and limited federal law, state legislatures, agencies, and courts have varying laws, decisions, and rulings related to property rights. As a result of the state-to-state variations and nuances, this guidebook does not address state laws, decisions, and rulings relating to property rights and TTF operations. In the alternative, this chapter discusses the legal interests and principles that are based on federal laws, FAA decisions, and court rulings, which are common to all states. Airport management and policymakers should seek legal counsel in these areas to gain a better understanding of the variations and nuances that have been established within the state that the airport sponsor operates within.

Best Practice

Regardless of the type of property owner or user (i.e., an entity that holds certain property rights through an agreement), each party has certain property rights commonly known as a “bundle of rights,” as depicted in **Figure 3-1**. However, a property owner may voluntarily limit certain bundled rights through agreement, as discussed in this chapter.

Figure 3-1: Property Owner Bundle of Rights



Interestingly, the majority of FAA decisions and court rulings discussed in this chapter involve commercial aeronautical TTF activities. Therefore, airport sponsors should carefully assess the advantages, disadvantages, and impacts associated with all TTF activities (especially commercial aeronautical TTF activities) before permitting, restricting, or prohibiting TTF operations (as discussed in Chapter 5: Assessing TTF Operations).

Best Practice

3.2 LEGAL INTERESTS

AIRPORT SPONSOR'S INTERESTS IN AN AIRPORT

An airport sponsor of a federally obligated airport has multiple legal interests in the airport, especially as it relates to the property (i.e., land) of the airport. First and foremost, from the perspective of this guidebook, are the airport sponsor's federal obligations. While the airport sponsor is normally the owner of the airport property, the airport sponsor may voluntarily limit certain "bundled rights" by accepting AIP funds, surplus or non-surplus land, and agreeing to comply with the Airport Sponsor Assurances (as discussed in Chapter 2: Airport Sponsor Obligations). The intent of voluntarily limiting certain "bundled rights" through agreement with the FAA is to ensure that the airport is planned, developed, operated, and managed for the benefit of the public in a way that will not adversely affect the safety, utility, or efficiency of the airport.

Second, and nearly as important, is the protection of the remaining elements of the "bundled rights" pertaining to the airport property. These rights can be protected by stipulating the terms and conditions for accessing and using the airport by operators, tenants, and users (including TTF entities). Such terms and conditions can be conveyed and enforced through ordinances, policies, standards, rules, and regulations (as discussed in Chapter 4: Airport Planning, Management, and Compliance Tools) and further stipulated in agreements with TTF entities accessing and using the airport (as discussed in Chapter 6: Structuring TTF Operations).

Airport management and policymakers should take proactive and reactive steps (as necessary) to protect the airport sponsor's "bundled rights" when assessing, structuring, and managing TTF operations.

Best Practice

In addition to an airport sponsor's obligations associated with the planning, development, operation, and management of the airport, airport sponsors are commonly responsible for protecting and promoting the health, safety, and general welfare of the residents governed by the airport sponsor and the owners/users of property located on and adjacent to the airport. This can be accomplished through the adoption of ordinances, zoning codes, and building codes (as discussed in Chapter 4: Airport Planning, Management, and Compliance Tools).

PROPERTY OWNER'S INTERESTS IN LAND LOCATED ADJACENT TO AN AIRPORT

As discussed in Section 3.1: Introduction, a property owner has the right to possess, control, exclude, enjoy, and dispose of property. However, the owner of property located adjacent to an airport may only exercise these rights to the extent that it does not unlawfully interfere with the same rights of another property owner (including the airport sponsor). Further, the property owner is also bound by the ordinances, zoning codes, and building codes adopted by the county or municipality having jurisdiction. Beyond ordinances and codes, a governmental agency has the ability to exercise the power of eminent domain and take property with just compensation.

When property is located adjacent to a federally obligated airport, the property owner has no legal obligation to adhere to any ordinances, policies, standards, rules, and regulations promulgated specifically for the airport by the airport sponsor. However, the property owner may voluntarily agree to be bound by such ordinances, policies, standards, rules, and regulations in an agreement with the airport sponsor (as discussed further in this chapter) in return for being granted TTF access to the airport and being given the right to engage in TTF activities on the TTF property.

SOURCE OF AUTHORITY FOR TTF ACCESS

An owner/user of property located adjacent to a federally obligated airport does not have the legal authority to access (or provide access to) the airport from the property. TTF access can only be granted by the airport sponsor through agreement between the airport sponsor and the property owner/user (as discussed in Chapter 6: Structuring TTF Operations). It is also important to note that the airport sponsor has no federal obligation to grant TTF access.

In return for granting TTF access, an airport sponsor should require that the property owner/user enter into a TTF agreement, pay all applicable rents and fees, and adhere to all ordinances, policies, standards, rules, and regulations promulgated by the airport sponsor for the airport (in general) and TTF access (in particular).

Best Practice

REGULATING TTF ACTIVITIES VERSUS TTF ACCESS

While an airport sponsor has the legal authority to govern TTF access, the activities occurring on TTF property are beyond the airport sponsor's legal authority (unless the airport sponsor and the local county or municipality are the same entity or the TTF entity grants legal authority to the airport sponsor in an agreement).

In addition to granting TTF access, the airport sponsor should require (within the TTF agreement) that the TTF entity grant the airport sponsor the legal authority to govern TTF activities on the TTF property through the airport sponsor's ordinances, policies, standards, rules, and regulations.

Best Practice

3.3 LEGAL PRINCIPLES ESTABLISHED THROUGH FAA DECISIONS

In addition to the FAA policies and guidance related to TTF operations (discussed in Chapter 2: Airport Sponsor Obligations), a more in depth understanding of the FAA's compliance decisions related to TTF operations can be obtained by reviewing a number of FAA Director's Determinations and Final Decisions relating to complaints filed under *Part 16* pertaining specifically to TTF operations.

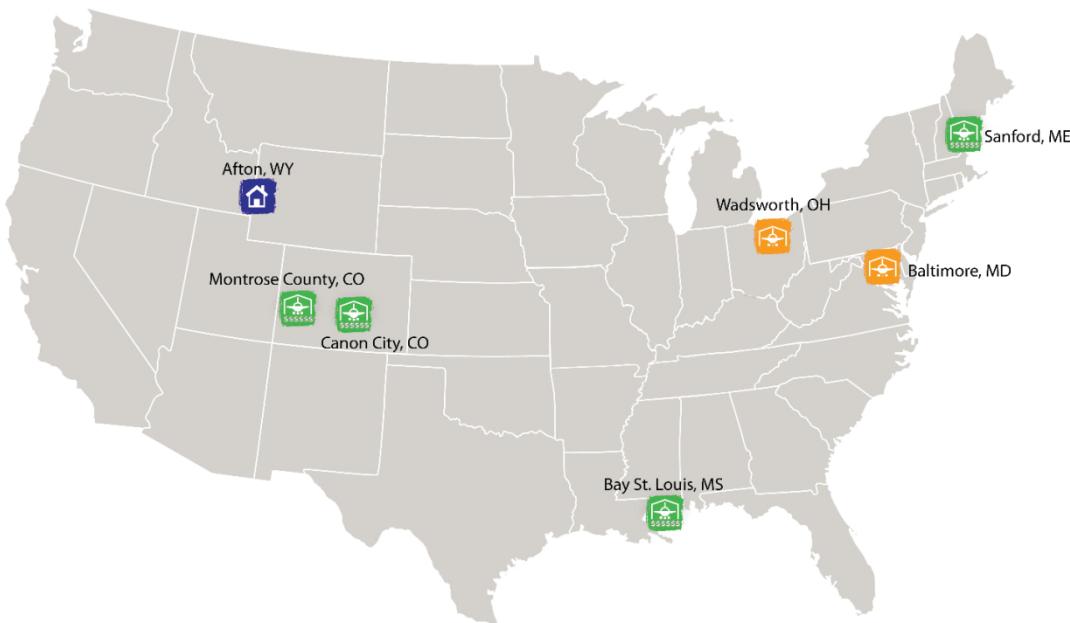
It is important to note that an FAA decision relating to a Part 16 complaint is only applicable to the airport sponsor against which the complaint was filed. While the FAA considers (1) the unique situation and/or the circumstances at the subject airport, (2) the specific issues brought forth by the complainant, (3) the specific responses of the responding airport sponsor, and (4) prior FAA decisions on related matters, the FAA's decision cannot be applied to all airport sponsors. In other words, the FAA may rule differently depending on the specific situation and/or circumstances. Within this context, the primary legal principles established through FAA decisions on issues related to TTF operations include the following:

- **Airport sponsors are not obligated to permit TTF operations** – for any reason. Decisions involving TTF operations must include the determination of what best serves the interests of the public, which may include permitting, restricting, or prohibiting TTF operations. Further, airport sponsors can take the appropriate amount of time (i.e., should not rush) to assess the opportunity and make the right decision.
- **Airport sponsors are obligated to protect on-airport FBOs and SASOs** – from the financial and operational impacts that may be associated with TTF operations. However, permitting a commercial aeronautical TTF activity alone does not necessarily result in non-compliance with federal obligations.
- **Airport sponsors may establish fees for TTF operations utilizing different methodologies** – than those used to establish fees for on-airport operators, tenants, and users. Additionally, fees associated with TTF operations may not necessarily apply (or need to apply) to on-airport operators, tenants, and users (including based or transient aircraft).

- **The FAA does not consider the reasonableness of fees imposed by the airport sponsor on TTF operations to be an FAA matter.** However, it is important to note that the FAA has ruled on this issue in the past and has consistently ruled in favor of the airport sponsor. Further, the FAA has ruled that charging a fee for TTF operations that is equal to the airport lease rate for equivalent square footage is reasonable.
- **The right to engage in self-service fueling (on-airport) does not extend to a TTF property.**
- **Airport sponsors are obligated to impose reasonable restrictions on TTF operations** – to protect the safety, utility, and efficiency of the airport for the benefit of the public while also ensuring compliance with federal obligations.
- **Airport sponsors must maintain a current airport layout plan (ALP)** – at all times and all airport development must be consistent with the FAA approved ALP including the designation and existence of TTF access points. Proposed TTF operations should be coordinated with the FAA.

Figure 3-2 illustrates the geographic locations of federally obligated airports where complaints associated with TTF operations were filed under Part 16 and legal principles were established through the FAA issued Director's Determinations and Final Decisions.

Figure 3-2: Airport Geographic Locations of FAA Decisions on TTF Operations



NATIONAL AIRLIFT SUPPORT CORP. V. FREMONT COUNTY BOARD OF COMMISSIONERS CANON CITY



In 1998, the National Airlift Support Corporation (NASC), a civilian skydiving operation at the Canon-City-Fremont Airport (Airport), filed a complaint with the FAA pursuant to *Part 16* against Fremont County (Airport Sponsor) as the owner and operator of the Airport in Canon City, Colorado.

NASC was operating at the Airport and the company wanted to purchase additional parcels of land in an industrial center complex located adjacent to the Airport to expand its operations. The request was denied as the zoning of the industrial center complex did not permit businesses that do not produce an industrial product. NASC alleged that the Airport Sponsor denied the company the opportunity to lease and develop land at the Airport in violation of Assurance 22 (Economic Nondiscrimination) as a crematorium was located in the industrial center complex and that zoning codes were not being equally enforced as a result. Subsequently, NASC proposed to purchase or lease a separate parcel of land located adjacent to the Airport, but the company's request was denied. After that, the

Airport Sponsor decided that it would no longer negotiate or consider entering into any agreements for any portions of the Airport or the surrounding property. The Airport Sponsor argued that NASC failed to establish a reasonable basis to warrant additional investigation and indicated that NASC had entered into an agreement with the Airport Sponsor for on-airport property.

The FAA determined that the Airport Sponsor was not in violation of Assurance 22 and Assurance 23 (Exclusive Rights) as FAA action is not necessary when an airport sponsor is in the process of developing operating restrictions. NASC appealed the decision and the FAA upheld its initial decision to dismiss the complaint.

UNITED AIRCRAFT SERVICES INC. V. HANCOCK COUNTY PORT AND HARBOR COMMISSION AND HANCOCK COUNTY BOARD OF SUPERVISORS



In 2000, United Aircraft Services Inc. (United), an on-airport FBO located at the Stennis International Airport (Airport), located in Bay St. Louis, Mississippi, filed a complaint with the FAA pursuant to *Part 16* against Hancock County Port and Harbor Commission and the Hancock County Board of Supervisors (Airport Sponsors), the co-owners, operators, and sponsors of the Airport.

United alleged that the Airport Sponsors failed to charge comparable rents and fees to the Airport's on-airport FBO and TTF FBO engaged in commercial aeronautical TTF activities and failed to require that the TTF FBO (Philips Aviation) adhere to the Airport's minimum standards in violation of Assurance 24 (Fee and Rental Structure) and Assurance 22 (Economic Nondiscrimination). The FAA determined that the TTF entity engaged in commercial aeronautical TTF activities pays \$35,100 per year to the Airport Sponsors whereas United pays \$37,100. Additionally, the fuel flowage fee, gross receipts fee, and tiedown fees for each FBO (on-airport and TTF) are similar.

The FAA found that permitting a commercial aeronautical TTF activity alone does not constitute a violation of the Airport Sponsors' federal obligation to protect on-airport FBOs and SASOs – as the market for the commercial aeronautical TTF activity was demonstrated to the Airport Sponsors by a petition in support of the TTF entity.

The TTF entity engaging in commercial aeronautical TTF activities was occupying less space and using fewer (Airport Sponsors' financed and owned) facilities than United. If the TTF entity was leasing on-airport land for the construction of hangar and office space, the TTF entity would be paying less per square foot than the Airport Sponsors were charging the TTF entity for TTF access and the rights granted to engage in commercial aeronautical TTF activities. As such, the FAA dismissed the complaint as the Airport Sponsors' treatment of United and the TTF entity engaged in commercial aeronautical TTF activities did not constitute unjust economic discrimination in violation of Assurance 22 (Economic Nondiscrimination).

AMAV INC. V. MARYLAND AVIATION ADMINISTRATION



In 2005, AmAv, a corporation providing 14 CFR Part 135 aircraft charter services and desirous of conducting non-commercial aeronautical TTF activities, filed a complaint with the FAA pursuant to *Part 16* and subsequent appeal against the Maryland Aviation Administration (Airport Sponsor), owner and operator of Martin State Airport (Airport) in Baltimore, Maryland.

AmAv alleged that the Airport Sponsor had unreasonable policies, standards, rules, and regulations relating to non-commercial self-fueling in violation of Assurance 22 (Economic Nondiscrimination). During the appeal, AmAv argued that the FAA's initial determination to reject AmAv's argument that a 3-year agreement for an on-airport fuel storage facility is unjustly discriminatory and unreasonable in light of the other agreements at the Airport which ranged from 10 to 30 years. However, the Airport Sponsor allowed AmAv to engage in temporary non-commercial aeronautical TTF activities (specifically, relating to non-commercial self-fueling) during the construction phase of the on-airport fuel storage facility.

The FAA determined that allowing temporary non-commercial self-fueling demonstrated that the Airport Sponsor had allowed and therefore had not denied AmAv's right to engage in non-commercial self-fueling.

In considering the appeal, the FAA affirmed its initial determination that the Airport Sponsor did not deny the right to non-commercial self-fueling as this right does not convey a right to engage in non-commercial aeronautical TTF activities (specifically, relating to non-commercial self-fueling) that do not meet reasonable minimum standards and rules and regulations.

SANFORD AIR, INC. V. TOWN OF SANFORD



In 2005, Sanford Air, Inc. (Sanford), an on-airport FBO located at Sanford Airport (Airport), filed a complaint with the FAA pursuant to Part 16 against the Town of Sanford (Airport Sponsor) which owns and operates the Airport in Sanford, Maine.

Sanford alleged that the Airport Sponsor imposed disparate fees between Sanford and a competing TTF FBO (Presidential Aviation) which had TTF access to the Airport for engaging in commercial aeronautical TTF activities – resulting in violation of Assurance 22 (Economic Nondiscrimination) and Assurance 23 (Exclusive Rights). The initial decision rendered by the FAA indicated that no violation had occurred as the Airport Sponsor offered Sanford the same rate as Presidential Aviation and that the assurances do not require that retroactive rate adjustments be made. Furthermore, **the FAA determined that the two competing FBOs were not similarly situated as the term of each agreement was different, that different rents and fees were appropriate, and that the presence of two competing FBOs indicated that an exclusive right had not been granted.**

Upon appeal, **the FAA also indicated that Sanford had voluntarily renegotiated the term with the Airport Sponsor and agreed to pay higher fees as consideration for extending Sanford's agreement.** Also, the agreement for Sanford was entirely different as Presidential Aviation had a TTF agreement (not a lease agreement) that granted TTF access and the right to engage in commercial aeronautical TTF activities. Presidential Aviation did not have any rights to lease on-airport land and improvements to conduct commercial aeronautical activities. The FAA dismissed the case and affirmed the Director's Determination due to lack of sufficient basis for a reversal.

M. DANIEL CAREY AND CLIFF DAVENPORT V. AFTON-LINCOLN COUNTY MUNICIPAL AIRPORT JOINT POWERS BOARD



In 2006, M. Daniel Carey and Cliff Davenport, individual tenants at the Afton-Lincoln County Municipal Airport (Airport), filed a formal complaint pursuant to Part 16 against the Afton-Lincoln County Municipal Airport Joint Powers Board (Airport Sponsor) which owns and operates the Airport in Afton, Wyoming, for alleged violations not related to TTF operations.

However, during its investigation, the FAA reviewed information relating to the fees being charged for residential TTF access. The administrative record included an undated advertisement for residential hangars in the Afton Airpark, which is located adjacent to the Airport. When contacted, the advertising company stated that a TTF agreement would not be necessary and that no fees were being charged by the Airport Sponsor for TTF access to the Airport. Subsequently, the FAA contacted a representative of the Afton Airpark, who had served on the Board of the Airport Sponsor in the past, and was informed that an annual fee of \$400 was being charged to each airpark property owner for residential TTF access to the Airport. This claim was confirmed by the respondent's attorney who indicated that the fee is collected as part of the Afton Airpark Homeowners Association fees.

The FAA determined that a fee of \$400 is reasonable for residential TTF access and found that the respondent had not violated Assurance 24 (Fee and Rental Structure).

WADSWORTH AIRPORT ASSOCIATION INC. V. CITY OF WADSWORTH AND WADSWORTH CITY COUNCIL



In 2006, the Wadsworth Airport Association Inc. (Wadsworth), a non-profit corporation comprised of approximately 40 aircraft owners with TTF access to Wadsworth Municipal Airport (Airport) for non-commercial aeronautical TTF activities, filed a complaint with the FAA pursuant to Part 16 against the City of Wadsworth, Ohio (Airport Sponsor), which owns and operates the Airport.

Wadsworth alleged that the Airport Sponsor unjustly discriminated against aircraft within city limits in violation of Assurance 22 (Economic Nondiscrimination) and Assurance 24 (Fee and Rental Structure) as aircraft located in areas outside the city limits were able to use the Airport without limitation and without paying the maintenance fee that aircraft located within the city limits were required to pay. The Airport Sponsor passed an ordinance imposing maintenance fees on aircraft that were based at the Airport or elsewhere within the city limits that had TTF access to the Airport for more than 30 days per year. The maintenance fees imposed, which were based on aircraft weight, did not apply to transient aircraft or aircraft based in areas outside of the city limits with TTF access to the Airport.

The FAA dismissed the complaint and recognized that the Airport Sponsor may use different mechanisms and methodologies to establish fees. Furthermore, it is not uncommon for political subdivisions to levy fees or taxes on property owners located within the jurisdiction of the political subdivision and while a fee or tax may be applicable to aircraft, this does not mean that the FAA has jurisdiction. **The FAA further concluded that transient aircraft users do not have the same access to the Airport and business relationship with the Airport Sponsor as aircraft located on TTF property and as such, are not considered similarly situated.** It is also important to note that Assurance 22 (Economic Nondiscrimination) does not prohibit discrimination. It does, however, prohibit **unjust** discrimination. Airport sponsors are permitted to make reasonable distinctions among different types of users of an airport.

JETAWAY AVIATION V. BOARD OF COUNTY COMMISSIONERS, MONTROSE COUNTY COLORADO



In 2006, a TTF entity, JetAway Aviation (JetAway), filed a complaint with the FAA pursuant to Part 16 against Montrose County, Colorado (Airport Sponsor), which owns and operates the Montrose Regional Airport (Airport). JetAway desired to engage in commercial aeronautical TTF activities and submitted a solicited proposal to become an FBO at the Airport. The Airport Sponsor awarded the FBO to Jet Center Partners (Jet Center), and subsequently, JetAway entered into a non-commercial land lease agreement for on-airport land located adjacent to JetAway's TTF property for the parking and moving of aircraft. The Airport Sponsor entered into an FBO agreement with Jet Center and JetAway submitted another proposal to become a second FBO at the Airport. In order to allow time to review specific concerns with the existing agreements authorizing TTF activities, the Airport Sponsor offered to vote on the proposal at a future meeting. JetAway wanted the proposal reviewed at an earlier meeting so that JetAway could commence FBO activities on the same day as the Jet Center, if the Board approved JetAway's proposal.

The FAA found that the Airport Sponsor did not grant an exclusive right to the Jet Center as it is not unreasonable or unjustly discriminatory for the Airport Sponsor to take additional time to consider the impacts of the proposed commercial aeronautical TTF activities. The FAA also believed that the issues could be resolved informally as the Airport Sponsor and Jet Center both stated that an additional FBO would be feasible, that sufficient on-airport property was available, and that JetAway's proposal met the existing minimum standards.

JETAWAY AVIATION V. MONTROSE COUNTY



In 2006, JetAway filed a second complaint. JetAway was denied the right to engage in commercial aeronautical TTF activities by the County. JetAway alleged, among other issues, that the Airport Sponsor unjustly discriminated against JetAway and granted exclusive rights to the existing on-airport FBO (Jet Center) in violation of Assurance 22 and Assurance 23.

JetAway alleged that TTF access for engaging in commercial aeronautical TTF activities was unreasonably denied by favoring the on-airport FBO and the Airport Sponsor granted an exclusive right to the on-airport FBO through unreasonable terms imposed on JetAway to conduct commercial aeronautical TTF activities, including aircraft fueling. JetAway leased land from One Creative Place, LLC (the owner of the TTF property and a related company) which had the ability to access the Airport pursuant to a TTF agreement with the Airport Sponsor. In addition to the complaint, JetAway filed an action in District Court to obtain clarification regarding the scope of the services that could be provided to the general public under the TTF agreement. The Court ordered that One Creative Place was permitted to self-fuel aircraft owned and operated by One Creative Place, but that One Creative Place could not commercially fuel any non-owned aircraft.

The FAA dismissed the complaint as the evidence presented by JetAway was insufficient to eclipse the Airport Sponsor's responsibilities to make decisions that best serve the aeronautical interests of the public. Furthermore, the Airport Sponsor offered JetAway on-airport land to become an on-airport FBO, but the offer was declined. **The FAA emphasized that airport sponsors have no obligation to allow TTF operations even if a TTF entity has a preferred parcel of land located adjacent to the airport that may be conducive for the provision of commercial aeronautical TTF activities.** By offering on-airport land, the Airport Sponsor illustrated that an exclusive right had not been granted.

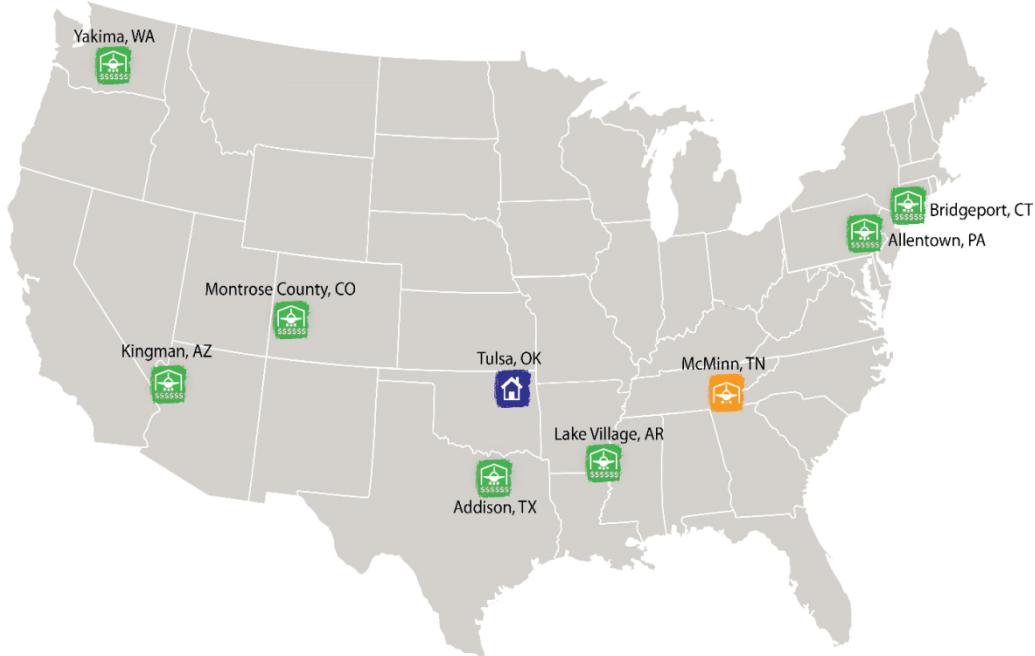
3.4 LEGAL PRINCIPLES ESTABLISHED THROUGH COURT RULINGS

The primary legal principles established through court rulings on issues related to TTF operations include the following:

- **An easement granting TTF access does not negate the right of the airport sponsor to require a TTF agreement and require payment of appropriate rents and fees.**
- **An airport sponsor may deny TTF operations** – without violating the Racketeer Influenced and Corrupt Organizations Act and the Sherman Antitrust Act or depriving an entity of its constitutional right to make the best use of its property.
- **Prohibiting TTF operations does not violate interstate commerce laws.**
- **An airport sponsor may establish reasonable ordinances, policies, standards, rules, and regulations for TTF operations** – and this will likely not result in inverse condemnation.
- **TTF entities must comply with municipal ordinances promulgated where the property exists** – regardless if there is a TTF agreement in place or if the agreement requires compliance with applicable ordinances.

Figure 3-3 illustrates the geographic locations of federally obligated airports where litigation associated with TTF operations has occurred and legal principles were established through court rulings.

Figure 3-3: Airport Geographic Locations of Court Rulings on TTF Operations



JADE AIRCRAFT SALES, INC. V. CITY OF BRIDGEPORT

 In 1983, Jade Aircraft Sales (Jade) sued the City of Bridgeport, Connecticut (Airport Sponsor), in Connecticut District Court, which had denied a TTF agreement to allow access to the Igor I. Sikorsky Memorial Airport (Airport). Jade alleged violations of the Racketeer Influenced and Corrupt Organizations Act (RICO) and the Sherman Act, as well as 42 U.S.C. § 1983 claims based on procedural and substantive due process, equal protection, and state statutory and common law. The court rulings are as follows:

- The court held that municipal corporations, such as the Airport Sponsor, were not capable of forming the requisite mental state for committing a crime and, therefore, could not be liable under RICO.
- The court held that Jade did not have standing to bring a Sherman Act claim because Jade had not actually suffered an injury because of the denial. The court noted that Jade still had numerous issues to resolve before being able to develop the business such as obtaining zoning approval, FAA approval, and financing.
- The court allowed the equal protection claim to move forward because there were material questions of fact regarding whether the Airport Sponsor denied valuable government benefits to Jade because Jade had refused to donate the land to the state without compensation.
- The court dismissed the procedural and substantive due process claims because Jade could not establish that the company had a protectable property interest of which it was deprived and the Airport Sponsor was not obligated in any way to do business with Jade.

STANDRIDGE FLYING SERVICE V. DEPARTMENT OF TRANSPORTATION



In 1983, prospective TTF entities, Standridge Flying Service and Wayne Standridge (Standridge), sued the FAA and the Mayor of Lake Village, Arkansas (Mayor), in the Arkansas District Court, who had refused to grant a TTF agreement to access the Lake Village Municipal Airport (Airport), alleging a 42 U.S.C. § 1983 claim that Standridge had been denied a constitutional right to make the best use of property. **The court held that Standridge had failed to show any discrimination or deprivation of use of property.** On appeal, the U.S. Court of Appeals, Eighth Circuit affirmed, determining that the appeal was frivolous. In a related proceeding, the Eighth Circuit granted the Mayor's request for costs and attorney's fees for defending against a frivolous appeal.

OXLEY V. CITY OF TULSA



In 1984, John T. Oxley (Oxley), owner of land located adjacent to the Tulsa Airport (Airport), sued the City of Tulsa, Oklahoma (Airport Sponsor), in Tulsa County District Court, alleging that, among other things, the Airport Sponsor's refusal to grant a TTF agreement constituted an unconstitutional taking of property owned by Oxley. The trial court rejected this argument and the Supreme Court of Oklahoma affirmed the trial court's ruling on appeal.

Oxley was the owner of a residence located adjacent to the Airport. In 1975, the Airport Sponsor began pursuing a plan to expand the Airport and, as part of the plan, intended to eliminate, through purchase, the residential uses in the vicinity of the Airport of which Oxley's property was identified as one. Oxley refused to sell and the Airport Sponsor instead rezoned the property for commercial and light industrial uses. However, Oxley felt unable to competitively develop the property because of the Airport Sponsor's zoning codes and Oxley brought an inverse condemnation action, alleging that the property had been unconstitutionally taken without just compensation. Oxley attempted to show that the property had been taken by way of refusal to provide low cost TTF access.

The court held that the refusal of the Airport Sponsor to grant TTF access did not constitute a taking. The court explained that once it is determined that a taking occurred, the proximity to other facilities, such as an airport or a major highway, is a factor that can be considered when assessing the taking's value. However, a refusal to grant TTF access to such facilities cannot constitute a taking.

NORTHEAST JET CENTER, LTD. V. LEHIGH-NORTHAMPTON AIRPORT AUTHORITY



In 1986, a prospective TTF entity, Northeast Jet Center (Northeast), sued the Lehigh-Northampton Airport Authority (Airport Sponsor) of the Lehigh Valley International Airport (Airport) in Allentown, Pennsylvania, in Pennsylvania District Court, alleging a cause of action under 42 U.S.C. § 1983 for violation of Northeast's equal protection rights under the Fourteenth Amendment of the Constitution.

Northeast argued that it had the right to enter into a TTF agreement with the Airport Sponsor because the sponsor had granted a TTF agreement to another entity. This case was settled and dismissed with prejudice against Northeast.

In 1990, Northeast sued the Airport Sponsor in a separate action alleging similar and additional grievances. The court ruled against Northeast on the TTF related portion of the claim relating to equal protection. The court held that the claim should be dismissed for lack of evidence.

In particular, **the court considered the Airport Sponsor's argument that although the Airport Sponsor had entered into a TTF agreement with another entity, the FAA subsequently requested that the Airport Sponsor stop granting TTF agreements in general. Therefore, the court reasoned that the Airport Sponsor had declined to grant Northeast a TTF agreement not because the Airport Sponsor was acting discriminatorily, but "solely to acquiesce to a recent FAA mandate."**

NELSON V. McMINN COUNTY



In 1994, Charles E. Nelson (Nelson) sued McMinn County (Airport Sponsor) in the Eastern District of Tennessee District Court, alleging that the Airport Sponsor had acted arbitrarily and capriciously in denying Nelson's offer to establish a TTF operation or engage in a sale-leaseback arrangement at the McMinn County Airport (Airport) in Athens, Tennessee.

The trial court rejected Nelson's argument and held the Airport Sponsor had acted reasonably. The court did not give weight to the fact that the Airport Sponsor had previously allowed for the creation of a new TTF agreement at the Airport in 1968. On appeal, the Tennessee Court of Appeals affirmed.

EDDINS ENTERPRISES, INC. V. TOWN OF ADDISON



In 2001, a TTF entity, Eddins Enterprises (Eddins), sued the Town of Addison, Texas (Airport Sponsor), in the 160th Judicial District Court, alleging that the Airport Sponsor's ordinance requiring TTF entities to have a TTF agreement and pay TTF access fees to the Addison Airport (Airport) violated a state statute. Further, Eddins alleged that, under its existing agreements with the Airport Sponsor, it had free TTF access to the Airport.

The Texas Court of Appeals rejected most of Eddins' arguments and required that Eddins obtain a TTF agreement and pay applicable TTF access fees before accessing the Airport. Eddins owned two TTF properties. The first TTF property had direct Airport TTF access and the second TTF property had TTF access to the Airport through a ground lease of Airport property. In 2001, the Airport Sponsor enacted an ordinance on TTF operations.

First, Eddins argued that the ordinance violated a state statute requiring that any fees imposed by a local government be "reasonable and uniform" and "established with due regard to the property and improvements used." **The court rejected this argument because TTF access fees were based on several factors, which showed that the Airport Sponsor had adequately considered (1) the fair market value of the property, (2) the square footage of the property, (3) a return-from-leasing multiplier, (4) a financing factor, and (5) a tax factor.**

Second, Eddins argued that its existing TTF agreement granted TTF access without being required to obtain a permit or pay a fee which was **rejected by the court because the TTF agreement contained a "compliance with laws" clause which required Eddins to comply with the reasonable ordinances promulgated by the Airport Sponsor.**

Third, Eddins made the same arguments from the perspective of the second TTF property. In response, the Airport Sponsor argued that the ground lease did not address TTF access. As such, TTF access was not a permitted use and thereby prohibited. **The court disagreed, finding the agreement silent in this regard (i.e., that the agreement did not prohibit or grant access). However, since the lease for the second TTF property contained a "compliance with laws" clause, the court held that Eddins was subject to the ordinances promulgated by the Airport Sponsor.**

JETAWAY AVIATION V. BOARD OF COUNTY COMMISSIONERS OF MONTROSE COUNTY COLORADO



In 2005, a TTF entity, JetAway Aviation (JetAway), sued the County of Montrose, Colorado (Airport Sponsor), in Colorado District Court, alleging that JetAway's TTF agreement granted the right to sell aviation fuel on JetAway's TTF property located adjacent to the Montrose Regional Airport (Airport). In 2006, the Airport Sponsor sued JetAway, seeking an injunction to prohibit JetAway from performing unauthorized FBO activities, such as selling aviation fuel, providing deicing services, and providing ground power unit services, pursuant to the TTF agreement. Later in 2006, JetAway sued the Airport Sponsor, seeking an injunction ordering the Airport Sponsor to allow JetAway to continue constructing an on-airport apron to be used in connection with the commercial aeronautical TTF activities. These three cases were consolidated and the court rejected all of

JetAway's arguments. On appeal, the Colorado Court of Appeals affirmed most of the trial court's decision, but remanded some of the claims to the trial court for further factual development. On remand, the trial court found in favor of the Airport Sponsor for the remaining claims. On appeal a second time, the appellate court affirmed.

JetAway desired to provide on-airport FBO products, services, and facilities, but the Airport Sponsor selected another company, Jet Center Partners (Jet Center), to do so. Nevertheless, JetAway continued the TTF operations and expanded its commercial aeronautical TTF activities to include FBO products, services, and facilities and JetAway also began construction adjacent to and on the Airport in anticipation of being able to expand its FBO activities without the permission of the Airport Sponsor. JetAway also advertised its ability to provide a full range of FBO products, services, and facilities.

In 2008, the court made a number of findings and conclusions relevant to this guidebook including the following:

- **JetAway was prohibited from offering services other than those listed in the Airport's Minimum Standards – including fueling other than self-fueling – because the standards were incorporated into the TTF agreement;**
- **JetAway was allowed to provide GPU services, but the company was prohibited from providing deicing services based on the understanding at the time the parties entered into the TTF agreement;**
- **JetAway was required to apply and pay for an access permit; and**
- **the land lease agreement for the on-Airport apron could be rescinded by either party because of a mistake regarding the size of the property and the agreement could be terminated by the Airport Sponsor because JetAway breached the agreement by performing fueling services on the on-airport premises without approval.**

In 2009, the appellate court affirmed most of the trial court's decision, but reversed and remanded some issues to the state trial court for further factual development including the questions of (1) whether JetAway was permitted to perform commercial aircraft maintenance services under the TTF agreement; (2) whether the Jet Center met the elements of a Colorado Consumer Protection Act claim, in light of the appellate court's finding that the Jet Center had demonstrated an injury in fact; and (3) whether JetAway or the Airport Sponsor were entitled to attorney's fees as a prevailing party under the TTF agreement, in light of the appellate court's remanding the issue relating to the interpretation of the provision of commercial aircraft maintenance services in the TTF agreement.

In 2011, the trial court considered the remanded issues and made several findings. **First, the court found that the Airport Sponsor should not be compelled to issue a TTF access permit to JetAway because of the company's violations of the TTF agreement after the June 30, 2008 order.** Second, the commercial aircraft maintenance services issue was moot because the Airport Sponsor had properly revoked JetAway's TTF access permit. Third, the court found that the Airport Sponsor was the prevailing party on two issues—what aircraft maintenance could be provided and whether the Airport Sponsor should be required to issue a TTF access permit—and therefore was entitled to attorney's fees for these two issues.

JETAWAY AVIATION, LLC V. BOARD OF COUNTY COMMISSIONERS OF MONTROSE COUNTY, COLORADO



In 2007, JetAway sued the County of Montrose, Colorado (Airport Sponsor), and others in Colorado District Court, alleging that the defendants had acted collusively to prevent JetAway from providing FBO services at the Montrose Regional Airport (Airport). JetAway alleged violations of the federal Sherman Antitrust Act (Sherman Act), denial of equal protection under the Fourteenth Amendment of the Constitution, and the creation of an unconstitutional burden on interstate commerce.

In 2004, JetAway purchased land located adjacent to the Airport that had TTF access rights. A building, which was originally designed for non-commercial aeronautical TTF activities, was located on the land. Without an agreement permitting the conduct of commercial aeronautical TTF activities, JetAway began providing FBO services. In 2005, the Airport Sponsor issued a Request for Proposals (RFP) that provided the Airport Sponsor with broad latitude to select a proposer (if any) and negotiate the provision of FBO services at the Airport. JetAway submitted a proposal based on its existing facility in which the land would be conveyed to the Airport Sponsor and then, would be leased back to JetAway.

Additionally, JetAway proposed to lease some Airport land from the Airport Sponsor and build an apron. Jet Center Partners (Jet Center) submitted a competing proposal which outlined a plan to construct a hangar, terminal building, and vehicle parking area on leased Airport land. The Airport Sponsor decided to negotiate with Jet Center and finalized an on-airport FBO agreement. JetAway initiated litigation against the Airport Sponsor and Jet Center in state and federal court and filed two Part 16 complaints with the FAA as well (discussed in this chapter).

The Colorado District Court rejected the Sherman Act argument because the situation was not one of horizontal bid rigging (as alleged), nor did it evidence an injury to competition. Rather, the Airport Sponsor issued an open-ended RFP and simply selected Jet Center. **Second, the court rejected the equal protection argument because there were many legitimate business reasons for the Airport Sponsor to select the Jet Center.** Discrimination, if it was a reason at all, was not the sole reason for the decision. **Third, the court rejected the interstate commerce argument because the economic effects of the market, if any, were local, and the court did not find any damage to interstate commerce.**

KINGMAN AIRPORT AUTHORITY, INC. V. HAYS



In 2007, plaintiff Kingman Airport Authority (Airport Sponsor) sued TTF entity Carl Hays, Jill Gernetzke-Hays, and M-14P (Hays) in the Superior Court in Mohave County, seeking to enjoin Hays from using the Kingman Airport (Airport), in Kingman, Arizona, and engaging in commercial aeronautical TTF activities without entering into a TTF agreement and paying TTF access fees. Hays argued possession of an easement that permitted access to the Airport without paying TTF access fees and filed counterclaims under 42 U.S.C. § 1983, alleging breach of contract and negligent misrepresentation. **The Arizona Court of Appeals rejected Hays' arguments and held that the continued use of the Airport would require that Hays enter into a TTF agreement with the Airport Sponsor and pay applicable TTF access fees.**

Hays held an easement that was rooted in two documents. First, the conditions, covenants, and restrictions in the property deed designated certain roads within the TTF property as aircraft easements which adjoined the Airport boundary. Second, a resolution by the Mohave County Board of Supervisors identified certain roads as “airport access roadways.” Hays presented evidence that the Airport Sponsor had allowed other parties to access the Airport without a TTF agreement or payment of TTF access fees and that the sponsor’s Director of Economic Development testified that several property deeds intended to create an implied right to access the Airport. However, **the court disagreed and held that the easement ended at the Airport gate. The court rejected Hays' argument that this would provide a “bridge to nowhere” and indicated that the easement was more like a “bridge to a toll road.”**

YAKIMA AIR TERMINAL-MCALLISTER FIELD V. M.A. WEST ROCKIES CORPORATION



In 2010, a TTF entity, M.A. West Rockies Corporation (West), sued the City of Yakima, Washington (Airport Sponsor), which owns and operates Yakima Air Terminal-McAllister Field (Airport) in Washington District Court, challenging West's eviction from the Airport.

The Washington Court of Appeals found that the facts were not fully developed and it remanded the case to the trial court. West leased a certain on-airport apron to use in connection with the adjacent TTF property. As stipulated in the TTF agreement, West agreed to pay monthly rent and if the Airport Sponsor ever drew from the security deposit, West agreed to make a payment for late rent and replenish the security deposit within a certain period of time. In 2009, the FAA issued Order 5190.6B strongly discouraging commercial aeronautical TTF activities.

In 2010, West failed to pay rent and the Airport Sponsor (1) applied the security deposit to the outstanding rental amount and (2) sent a notice to West as stipulated in the TTF agreement. West replenished the deposit, but the next month's rent and various administrative fees were due as well. Once again, West made a payment, but the parties disputed whether the payment was timely and whether the Airport Sponsor had applied it to the security deposit or the rental payment. **The court held that the resolution of these two issues was critical to deciding whether West was actually in breach of its TTF agreement when the company was evicted from the Airport.**

3.5 WRAP-UP

This chapter outlined the legal interests and principles established by the U.S. Constitution, federal and state statutes, FAA decisions, and court rulings. First, property owners (both TTF entities and airport sponsors) enjoy certain property rights commonly known as a "bundle of rights" including possession, control, exclusion, enjoyment, and disposition. Neither party is obligated to give up any one or more of these rights unless willing to do so by agreement. For example, an airport sponsor may give up some rights in return for AIP funds and a TTF entity may give up rights in return for TTF access and the right to engage in TTF activities.

Several key legal principles have been established through FAA decisions including:

- Airport sponsors are not obligated to permit TTF operations.
- Airport sponsors are obligated to protect on-airport FBOs and SASOs from entities engaged in commercial aeronautical activities (including those on TTF property) who are not meeting or abiding by similar policies, standards, rules, and regulations.
- Airport sponsors should establish rents and fees for TTF operations.
- The FAA does not consider the reasonableness of TTF fees to be an FAA matter.
- The right to engage in self-service fueling (on-airport) does not extend to a TTF property.
- Airport sponsors must maintain compliance with the federal obligations at all times.
- A current ALP must be maintained at all times and TTF operations should be coordinated with the FAA.

Additionally, there were several key legal principles established through court rulings including:

- An easement does not negate the airport sponsor's ability to require a TTF agreement and payment of rents and fees.
- An airport sponsor may deny or prohibit TTF operations without violating the Racketeer Influenced and Corrupt Organizations Act, the Sherman Antitrust Act, interstate commerce laws, or constitutional rights.
- Reasonable ordinances, policies, standards, rules, and regulations will likely not result in inverse condemnation.
- TTF entities must comply with ordinances promulgated by municipalities where the property exists.

CHAPTER FOUR

AIRPORT PLANNING, MANAGEMENT, AND COMPLIANCE TOOLS

- 4.1 Introduction
- 4.2 Primary Planning Documents
- 4.3 Airport Sponsor Regulatory Measures
- 4.4 Primary Management and Compliance Documents
- 4.5 Wrap-Up

4.1 INTRODUCTION

Every airport included in the National Plan of Integrated Airport Systems plays a significant role in the national aviation transportation system. As discussed in Chapter 2: Airport Sponsor Obligations, an airport sponsor receiving AIP funds and/or surplus or non-surplus property must agree to comply with certain federal obligations.

Whether or not an airport has TTF operations, there are several airport planning, management, and compliance tools (hereinafter referred to as tools) that can be utilized by airport management and policymakers to maintain compliance with federal and state obligations. Additionally, such tools can help ensure that an airport is being planned, developed, operated, and managed for the benefit of the public in a way that will not adversely affect the safety, utility, or efficiency of the airport. This chapter discusses each of the tools identified in **Figure 4-1**:

Figure 4-1: Airport Planning, Management, and Compliance Tools



While some of the tools discussed in this chapter may not be required by the FAA or other federal or state agencies, the development, implementation, and enforcement of these planning, management, and compliance tools is recognized by the FAA (and other agencies) as appropriate tools for maintaining compliance with the multitude of obligations.

Best Practice

Before soliciting or accepting proposals on TTF operations, airport management and policymakers should have the airport sponsor's backyard in order. This would include the review and/or update of the tools discussed in this chapter to help ensure that TTF operations are being addressed. By accomplishing this work in advance of soliciting or accepting a TTF proposal, an airport sponsor can encourage, discourage, or prohibit TTF proposals.

Further, if TTF proposals are encouraged, the tools discussed in this chapter can help ensure that the information, data, and/or documentation required to properly assess a proposal will be provided and/or obtained and that all proposals will be assessed on a consistent basis by airport management and policymakers. In essence, by proactively developing, implementing, and enforcing the tools discussed in this chapter, the decision making process (for all parties) will be more consistent, less complicated, and less demanding.

4.2 PRIMARY PLANNING DOCUMENTS

An airport is much more than land and infrastructure; it's an economic engine that provides significant benefit to surrounding communities and beyond. As such, airport management and policymakers should endeavor to foster aviation development, encourage aeronautical activities, and maximize the economic impact of an airport. Additionally, airport management and policymakers should strive to generate sufficient revenue to cover costs and be financially self-sustaining to the greatest extent possible. One of the most effective ways to achieve this goal is to develop and implement primary planning documents (strategic business plan, master plan, and ALP).

TTF operations can create or exacerbate issues for airport sponsors and communities that must be assessed and managed. Conversely, TTF operations can create opportunities and/or resolve or alleviate issues for airport sponsors and communities by providing additional sources of revenue; improving and/or enhancing the type, level, and quality of aviation products, services, and facilities provided at an airport; and creating economic impact including jobs and taxes. Understanding the purpose of and developing and implementing primary planning documents can help airport management and policymakers assess, structure, and manage TTF operations.

AIRPORT STRATEGIC BUSINESS PLAN

An airport strategic business plan identifies the **mission, vision, and long-term strategic goals** for an airport (typically, over a 10 to 20 year horizon) and uses a logical and disciplined structure to convey **short-term business goals, objectives, and action plans** that drive the day-to-day operation and management of an airport (typically, over a one year horizon). In essence, a strategic business plan transforms the mission, vision, and long-term strategic goals for an airport into specific short-term business goals, objectives, and action plans within each functional area of the airport. A strategic business plan is a valuable planning, management, and communications tool.

One of the Airport Sponsor Assurances (discussed in Chapter 2: Airport Sponsor Obligations) that can be addressed through the development and implementation of an airport strategic business plan is Assurance 19 (Operation and Maintenance).

Airport management and policymakers should develop (or update) and implement a strategic business plan before making major decisions such as permitting, restricting, or prohibiting TTF operations. Without an airport strategic business plan, it will be difficult for airport management and policymakers to determine whether or not TTF operations are consistent with (and/or will help realize) the mission and vision for the airport or if TTF operations will help achieve the goals or objectives that have been established for the airport.

Best Practice

ACRP has published *ACRP Report 77: Guidebook for Developing General Aviation Airport Business Plans* and *ACRP Report 20: Strategic Planning in the Airport Industry* which helps airport management and policymakers develop (or update) and implement an airport strategic business plan. It is significant to note that, once in place, an airport strategic business plan can serve as a platform for developing (or updating) and implementing the additional planning, management, and compliance tools (discussed in this chapter) that can help airport management and policymakers assess, structure, and manage TTF operations.



AIRPORT MASTER PLAN

An airport master plan outlines the short (5 year), medium (10 year), and long-term (20 year) **planning and development goals for an airport**. During an airport master planning process, a systematic approach is utilized to assess the current capacity of an airport's infrastructure, evaluate current and projected demand, identify existing and anticipated deficiencies, introduce and evaluate alternatives, solicit stakeholder input and comments, establish recommended land uses on-airport (and off, primarily for expansion purposes), and outline an associated capital improvement program.

From a TTF operations perspective, the airport master planning process and the resulting airport master plan provide a means for encouraging compatible land uses on-airport and adjacent to an airport (and within the airport's influence area). As discussed in this chapter, incompatible land use around an airport can adversely affect the safety, utility, and efficiency of an airport. As such, airport management or policymakers assessing TTF operations should carefully consider the airport's current master plan to ensure compatible land use(s).

A master plan should carefully balance the needs associated with the projected use of the airport with the needs and desires of the local community (including elected and appointed officials) while maintaining consistency with federal and state obligations and local ordinances, codes, policies, plans, and goals. When an airport sponsor undertakes the development of an airport master plan, coordination between the airport sponsor and the county or municipality (if different from the airport sponsor) is essential. The FAA provides significant guidance relating to airport master plans and the master planning process in AC 150/5070-6B, Airport Master Plans and AC 150/5300-13A, Airport Design.

Best Practice



AIRPORT LAYOUT PLAN

An ALP graphically depicts existing land, infrastructure, and improvements on an airport and identifies the planned capital improvement projects for the airport. By FAA definition, an ALP depicts:

- boundaries and proposed additions to all areas owned/controlled by the airport sponsor;
- the location and nature of existing and proposed airport infrastructure and facilities; and
- the location on the airport of existing and proposed non-aviation land and improvements thereon.

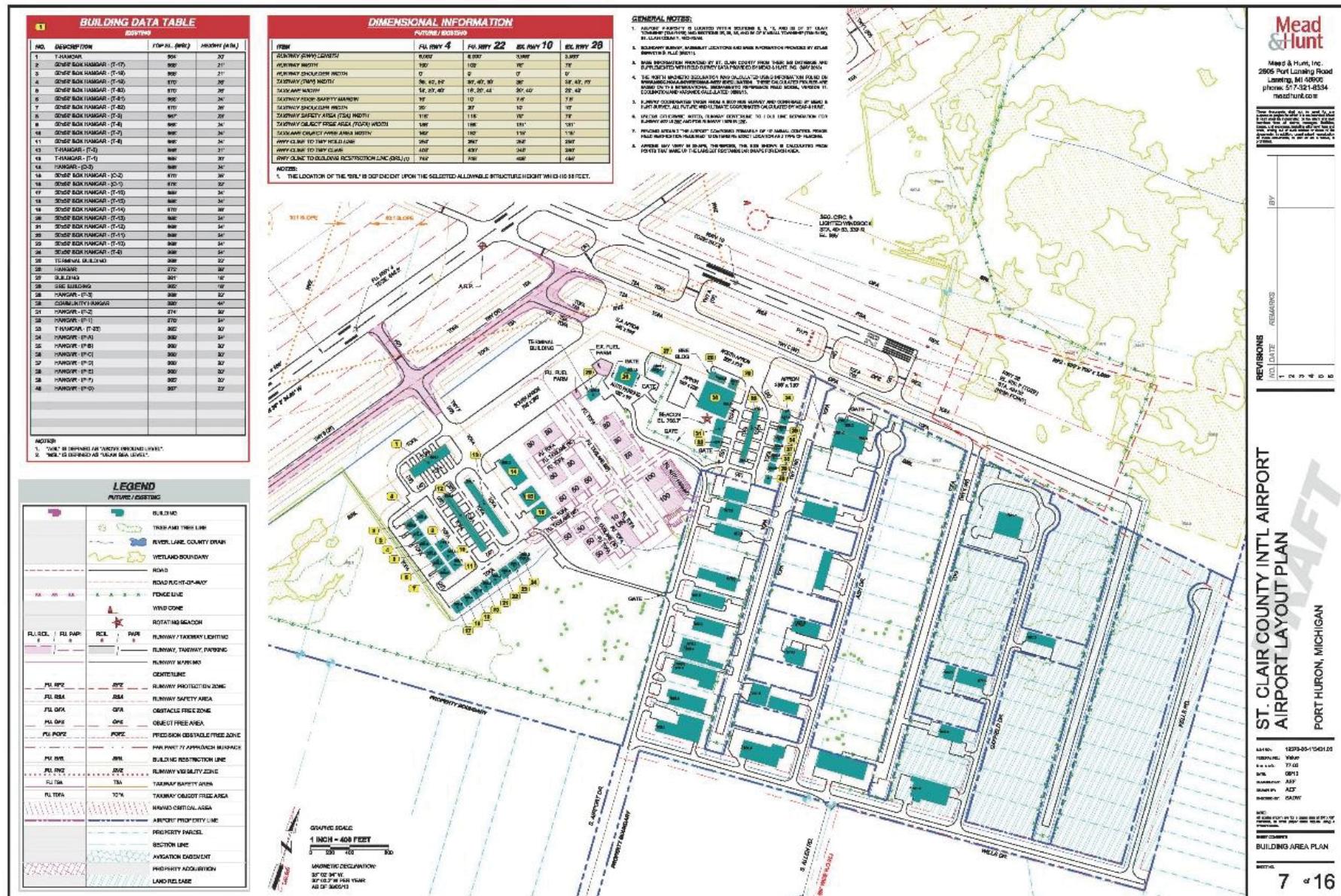
The importance of a current ALP cannot be understated. Before obtaining AIP funds, an airport sponsor must have a current ALP approved by the FAA. Typically, an out-of-date ALP does not accurately reflect the current land, infrastructure, and improvements associated with an airport and the land-use changes that may have occurred over the years (on-airport and off) that could have an adverse impact on airport expansion and/or navigable airspace.

One of the Airport Sponsor Assurances that can be addressed through a current ALP is Assurance 29 (Airport Layout Plan).

As discussed in Chapter 2: Airport Sponsor Obligations and as stipulated in Assurance 29, Airport Layout Plan, the FAA requires that all TTF access points be identified on the current ALP. The sample ALP sheet provided in **Figure 4-2** illustrates a TTF operation with TTF access points from taxistreets.

Federal Obligation

Figure 4-2: Sample ALP Sheet Depicting a TTF Operation Layout and TTF Access



4.3 AIRPORT SPONSOR REGULATORY MEASURES

Once airport sponsors have developed the primary planning documents discussed in this chapter, it is critical to implement the documents. One of the key implementation steps is developing and adopting airport sponsor regulatory measures that can help ensure that an airport is planned, developed, operated, and managed for the benefit of the public in a way that will not adversely affect the safety, utility, or efficiency of the airport.

An airport sponsor has the ability to regulate the use of the airport from two primary perspectives: (1) as a regulatory body that is delegated powers and responsibilities through state enabling legislation, an airport sponsor can adopt ordinances, zoning codes, and building codes (discussed further in this section) and (2) as the land owner, the airport sponsor has the ability to develop and implement land use plans and a wide variety of airport management and compliance documents (discussed further in this chapter). The FAA acknowledges the powers of airport sponsors and encourages (if not, requires, through the assurances) that an airport sponsor protect its rights and powers by regulating the use of the airport, consistent with the assurances.

ACRP Legal Research Digest 7: Airport Governance and Ownership and ACRP Legal Research Digest 15: Compilation of State Airport Authorizing Legislation examines airport-specific state enabling legislation that grants specific powers to airport sponsors; legal principles affecting airport governance; and the transfer and delegation of airport sponsor powers. Additionally, these legal research digests identify the powers that airport sponsors may have or must obtain to effectively plan, develop, operate, and manage an airport.



Understanding airport sponsor rights and powers and associated airport sponsor regulatory measures will help airport management, policymakers, and other stakeholders deal with the opportunities and issues associated with assessing, structuring, and managing TTF operations.

ORDINANCES

Ordinances are regulatory measures adopted by counties and municipalities to address public health, safety, and general welfare. The primary advantage of an ordinance is the enforcement power granted to a county or municipality by enabling state statutes or constitutions. Enforcement of ordinances varies from state-to-state, county-to-county, and municipality-to-municipality. In most cases, a county or municipality can utilize code and law enforcement officers to issue citations to violators of the county's or municipality's ordinance. A violation of an ordinance is typically considered a petty offense or a municipal offense and not a misdemeanor or felony. However, citations issued for a violation of an ordinance can be punishable by fines (and in some situations, by serving time in jail, although not typically longer than one year). Other penalties for violation of an ordinance can include probation, community service, treatment classes, and recovery of costs for damages.

Municipalities that own and operate an airport can adopt an airport ordinance governing the planning, development, operation, and management of the airport, which may include the following provisions.

- **Definitions** – defines the key terms used in planning, management, and compliance documents.
- **Airport governance** – identifies the airport sponsor (owner) and the governing and/or advisory body of the airport and associated powers.
- **Airport management** – identifies the individual(s), by position, who is (are) responsible for the day-to-day operation and management of the airport.
- **Compliance** – requires that all airport operators, tenants, and users (including TTF entities, if applicable) comply with all applicable ordinances, policies, standards, rules, and regulations.
- **Permitted, restricted, and prohibited activities** – identifies all activities that are permitted, restricted, and/or prohibited at the airport (which could include TTF operations).

- **Enforcement** – outlines the process and procedures for enforcing ordinances, policies, standards, rules, and regulations.
- **Disputes** – outlines the process and procedures for resolving disputes and conflicts.
- **Grounds for denial** – identifies possible grounds for denying an application to engage in on-airport activities or TTF operations (if permitted or restricted).

After assessing TTF operations (using the assessment process discussed in Chapter 5: Assessing TTF Operations), if an airport sponsor decides to permit, restrict, or prohibit TTF operations, the ordinances for the airport should be modified accordingly. In particular, any key terms and conditions (e.g., the requirement to obtain permission and/or approval from the airport's governing body) and any restrictions and/or prohibitions associated with TTF operations should be clearly stipulated. The incorporation of such elements into an airport ordinance can help ensure that the decisions made by airport management and policymakers associated with assessing, structuring, and managing TTF operations will be consistent. Chapter 6: Structuring TTF Operations identifies and discusses the specific elements relating to TTF operations that should be included in an airport ordinance.

Best Practice

One of the Airport Sponsor Assurances that can be addressed through an airport ordinance is Assurance 5 (Preserving Rights and Powers).

Airport sponsors that do not have delegated powers to adopt ordinances (e.g., airport authorities, private entities, etc.) can request that the local county or municipality (in which the airport property is located) adopt an ordinance that addresses airport planning, development, operations, and/or management, and more specifically, TTF operations. If the adoption of an ordinance is not possible, airport management and policymakers should adopt a policy addressing the same aspects as the ordinance.

Best Practice

ZONING CODES

TTF operations utilize on-airport and off-airport land. As such, the airport and the community can be impacted by the development of improvements on TTF property and associated activities (including TTF activities). Within this context, the development, implementation, and enforcement of zoning codes for land on, adjacent to, or within the airport influence area by the airport sponsor (or associated county or municipality) can help encourage and support future land uses that are compatible with airport operations. In turn, these efforts help ensure the safety, utility, and efficiency of the airport; preserve the public investment in the airport; protect the health, safety, and general welfare of the public; and alleviate the need for an airport sponsor to acquire land and improvements or purchase an easement to provide the required protections for the airport and its users.

Zoning codes identify the permitted, restricted, and/or prohibited uses of land (e.g., residential, commercial, industrial, institutional, infrastructure, agricultural, open space, etc.) within a community. Typically, a community is divided into separate zoning districts, thereby preserving the unique characteristics of each district and protecting the health, safety, and general welfare of the public. In addition to addressing the use of the land, zoning codes may identify the permitted, restricted, and/or prohibited attributes of buildings and facilities (structural and architectural features) such as height, setbacks, vehicle parking, signage, and lighting. Airport zoning codes should support land uses that are compatible with airport operations and that protect the airport's airspace (on and off the airport).

Two of the Airport Sponsor Assurances that can be addressed through adoption, administration, and enforcement of airport zoning codes are Assurance 20 (Hazard Removal and Mitigation) and Assurance 21 (Compatible Land Use).

Best Practice

Several states (e.g., California, Michigan, Florida, etc.) have enacted legislation addressing airport zoning and/or requiring the development and implementation of a compatibility land use plan to protect federally obligated airports.

ACRP Legal Research Digest 5: Responsibility for Implementation and Enforcement of Airport Land-Use Zoning Restrictions examines governmental structures and airport-related land use, local airport land use controls, prevention or discouragement of incompatible airport land uses, typical approaches for mitigating airport-incompatible land uses, enforcement of airport environs land use, and communicating with the public about airport land use. This resource can be used by airport sponsors to develop zoning codes that support compatible land uses on land adjacent to the airport and within the airport influence area. The FAA also provides guidance that addresses the development of zoning codes that specifically limit the height of objects around an airport – FAA AC 150/5190-4: A Model Zoning Ordinance to Limit the Height of Objects Around Airports. It should be noted that this AC is currently under review by the FAA and will likely be revised and given a new title. It is anticipated that the revised AC will provide guidance on compatible and non-compatible land use types in addition to object height limitations.



LAND USE PLANS

Zoning codes for land adjacent to an airport are typically based on a community land use plan and/or airport land-use compatibility plan. A community land use plan addresses current and projected land-use patterns within a community (typically over a 20-year horizon). At the airport level, an airport master plan identifies on-airport land uses over a 20-year timeframe while an airport land use compatibility plan identifies off-airport land uses that are not compatible with the airport and outlines strategies to mitigate adverse impacts and minimize incompatible land uses in the future. A sample airport land use compatibility map is provided in **Figure 4-3**.

One of the *Airport Sponsor Assurances* that can be addressed through development and implementation of a land use plan and an airport land use compatibility plan is Assurance 21 (Compatible Land Use).

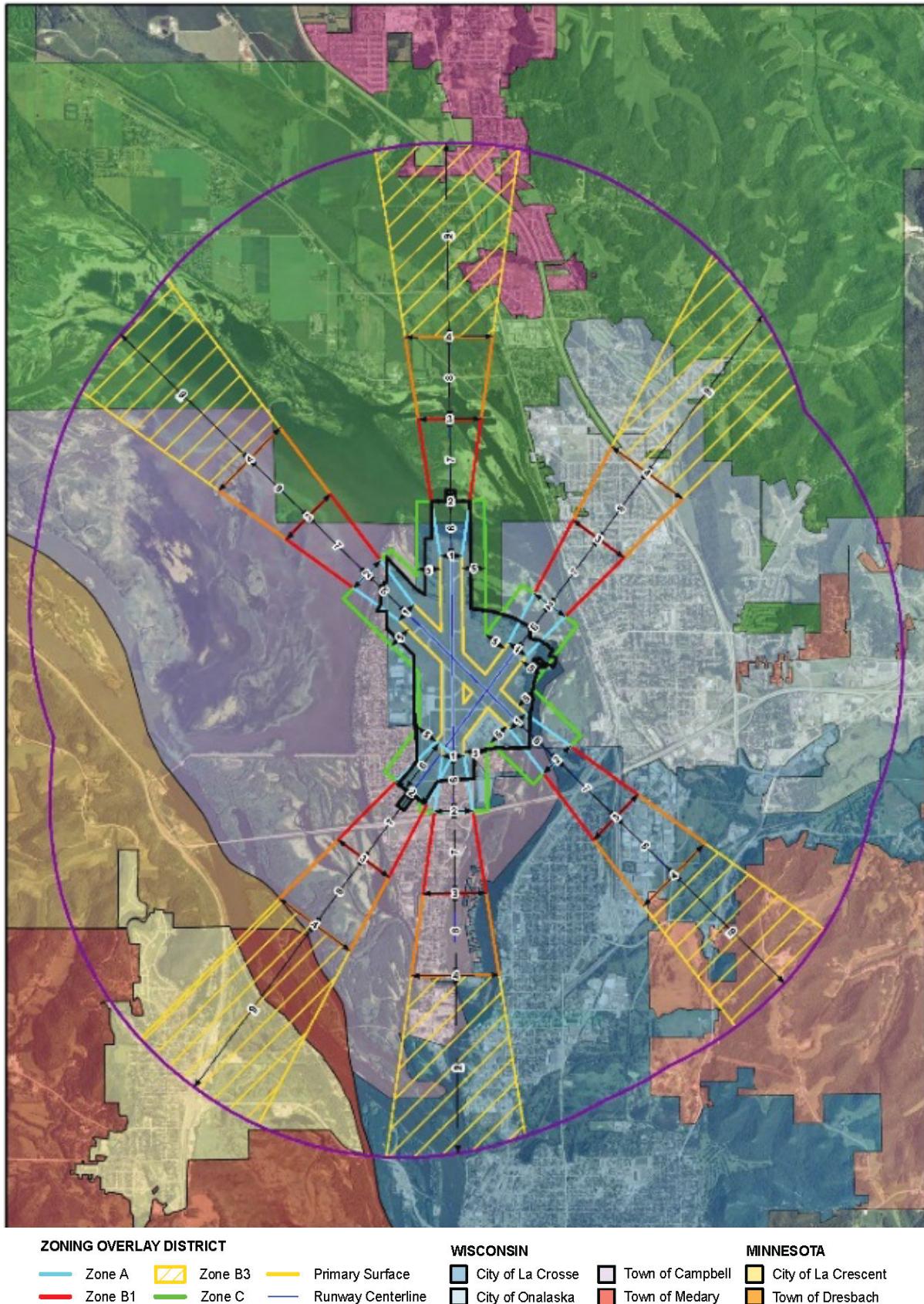
Without a community land-use plan and an airport land-use compatibility plan, the possibility that land adjacent to an airport or within an airport influence area could be developed for purposes that are not compatible with an airport increases significantly. Additionally, incompatible land use can threaten the safety, utility, and efficiency of an airport and the health, safety, and general welfare of the public.

When a county or municipality is developing a community land use plan and an airport is located within or adjacent to the community, coordination between the county or municipality and the airport sponsor (if different from the county or municipality) is essential.

Best Practice

ACRP has published a resource to help airport sponsors mitigate incompatible land uses and promote compatible land uses: *ACRP Report 27: Enhancing Airport Land Use Compatibility*, which examines airport land-use compatibility concerns, roles and responsibilities of stakeholders, federal land-use regulations and guidance, economic costs of airport land-use incompatibility, aircraft noise and land-use compatibility, aircraft accidents and safety considerations, and tools and techniques for achieving land-use compatibility. Additionally, the FAA has published guidance on compatible land use planning for airports: FAA AC 150/5020-1: Noise Control and Compatibility Planning for Airports.



Figure 4-3: Sample Airport Land-Use Compatibility Map

BUILDING CODES

Building codes stipulate minimum acceptable levels of safety for the design and construction of infrastructure, buildings, and facilities that are designed to protect the health, safety, and general welfare of the public during construction, use, and occupancy.

Many communities adopt building codes that have been established by international and national organizations (e.g., International Code Council, National Fire Protection Association, etc.). Building codes typically address a multitude of areas, including building, residential, fire, plumbing, mechanical, energy conservation, green construction, etc.

Two of the Airport Sponsor Assurances that can be addressed, in part, through adoption, administration, and enforcement of building codes are Assurance 21 (Compatible Land Use) and Assurance 20 (Hazard Removal and Mitigation).

Airport sponsors should adopt building codes that are specific to the unique improvements associated with TTF operations to assure compatibility with the airport and associated activities.

Best Practice

4.4 PRIMARY MANAGEMENT AND COMPLIANCE DOCUMENTS

Primary management and compliance documents (which are a compendium of airport policies, standards, rules, and regulations) play a key role when it comes to the planning, development, operation, and management of an airport. In combination, these documents are designed to:

- contribute to the long-term financial health of an airport;
- facilitate the orderly development of an airport;
- ensure the provision of quality aviation products, services, and facilities at an airport;
- protect the health, safety, and general welfare of the public at an airport; and
- reduce the potential for conflicts with operators, tenants, and users of an airport.

Primary management and compliance documents typically consist of a leasing/rents and fees policy, minimum standards, rules and regulations, and development standards. Each of these documents are discussed in this section. While not part of an airport strategic business plan, primary management and compliance documents can be integral to the successful implementation of an airport strategic business plan.

Airport sponsors that have adopted an airport ordinance permitting, restricting, or prohibiting TTF operations at the airport should modify existing (or develop new) primary management and compliance documents to incorporate airport policies, standards, rules, and regulations pertaining specifically to TTF operations.

Best Practice

In the alternative, standalone primary management and compliance documents pertaining specifically to TTF operations could be developed, implemented, and enforced. However, it is important to note that many airport policies, standards, rules, and regulations that apply to on-airport operations can also apply to TTF operations. In fact, airport management and policymakers should manage TTF operations as if the activities were occurring on-airport. As such, the development of standalone primary management and compliance documents for TTF operations can increase the potential for conflict and create another set of issues that would need to be addressed.

A third alternative includes the development (or modification), implementation, and enforcement of airport policies, standards, rules, and regulations relating specifically to TTF operations, each of which could be incorporated by reference into the TTF agreement. This approach could be used if an airport sponsor anticipates one (or very few) TTF operations at the airport.

It is recognized that airport management and policymakers may not have the time (and in some cases, the funds) available to develop and implement the full array of airport policies, standards, rules, and regulations (i.e., primary management and compliance documents). In such situations, airport management and policymakers should adopt individual policies, standards, rules, and regulations to address the current issues facing the airport sponsor.

Whether airport management and policymakers decide to amend existing or develop new primary management and compliance documents or adopt individual policies, standards, rules, and regulations relating specifically to TTF operations, the process should include (1) communication with airport stakeholders (i.e., what type of TTF operations are being contemplated, where, when, why, and how), (2) a structured and open process, and (3) the opportunity for airport stakeholders to review and comment.

Best Practice

The policies, standards, rules, and regulations that should be developed, implemented, and enforced specifically for TTF operations are discussed in Chapter 7: Managing TTF Operations. An overview of each primary management and compliance document follows.

LEASING/RENTS AND FEES POLICY

A leasing/rents and fees policy governs the development of agreements with entities desirous of occupying airport land and improvements for commercial or non-commercial purposes. Specifically, this document sets forth the parameters for leasing airport land and improvements and outlines the process for establishing and adjusting airport rents and fees. As with other primary management and compliance documents, a leasing/rents and fees policy ensures consistency in the way prospective and existing lessees are treated.

Most TTF entities will not be leasing airport land and improvements. However, this primary management and compliance document would apply if an airport sponsor grants exclusive use of land and/or improvements to facilitate TTF access to the airport (e.g., land for an exclusive on-airport taxiway or taxilane).

ACRP has published a resource that can help airport management and policymakers develop leasing/rents and fees policies: *ACRP Report 47: Guidebook for Developing and Leasing Airport Property* discusses best practices for leasing and developing airport property.



MINIMUM STANDARDS

Minimum standards establish the qualifications and minimum requirements that must be met as a condition for the right to conduct a commercial aeronautical activity at an airport. Within this context, this document provides a consistent threshold and reasonable opportunity for existing or new entities to qualify and compete for the right to engage in commercial aeronautical activities. In essence, minimum standards provide a “level playing field” and “promote fair competition” among entities. However, it is important to note that this does not mean that an airport sponsor needs to provide equal access (as it pertains to TTF entities) nor does it mean that an airport sponsor needs to charge equal fees for similar activities. The FAA has ruled that access for TTF entities and fees for TTF activities can be different (including being higher) and that this is not unjustly discriminatory.

Minimum standards only apply to TTF operations when a TTF entity is engaging in commercial aeronautical activities on TTF property. While airport management and policymakers could adopt separate minimum standards requirements for on-airport and TTF FBOs and SASOs, TTF FBOs and SASOs should be required to meet the same or higher minimum standards as on-airport FBOs and SASOs. Higher minimum standards for TTF FBOs and SASOs may be appropriate to maintain economic parity with on-airport FBOs and SASOs as TTF entities have the economic benefit of fee simple ownership of land and improvements that extend into perpetuity. Some of the specific minimum standards that should be considered for TTF FBOs and SASOs are discussed in Chapter 7: Managing TTF Operations.

Best Practice

It is important to note that a TTF entity engaged in commercial aeronautical activities on TTF property is not obligated to comply with an airport's minimum standards unless the TTF agreement specifically imposes this requirement. Further, TTF entities are not protected by the *Airport Sponsor Assurances* (as discussed in Chapter 2: Airport Sponsor Obligations). As such, an airport sponsor can prohibit any TTF entity from engaging in commercial aeronautical TTF activities.

ACRP has published a resource that can help airport management and policymakers develop and implement minimum standards: *ACRP Legal Research Digest 11: Survey of Minimum Standards: Commercial Aeronautical Activities at Airports*. Additionally, the FAA has published ACs on the subject of minimum standards including AC 150/5190-6: Exclusive Rights at Federally Obligated Airports and AC 150/5190-7: Minimum Standards for Commercial Aeronautical Activities.



RULES AND REGULATIONS

Rules and regulations apply to anyone who uses an airport at any time for any purpose, including operators, tenants, users, guests, and TTF entities, and are typically established to protect the health, safety, and general welfare of the public and ensure the safety, utility, and efficiency of the airport for the benefit of the public. The significant and broad reaching nature of this document makes the development, implementation, and enforcement by airport management and policymakers particularly important.

After assessing TTF operations (using the approach outlined in Chapter 5: Assessing TTF Operations), if an airport sponsor decides to permit, restrict, or prohibit TTF operations, there are specific rules and regulations that should be developed, implemented, and enforced pertaining specifically to TTF operations and the permitted, restricted, or prohibited types of TTF activities, especially as it relates to TTF access. Some of the specific rules and regulations that should be considered for TTF operations are discussed in Chapter 7: Managing TTF Operations.

Best Practice

While an airport sponsor can enforce rules and regulations on an individual or entity (including TTF entities) using the airport, as with minimum standards, a TTF entity is not obligated to comply with an airport's rules and regulations for activities taking place off-airport (i.e., on TTF property) unless the TTF agreement specifically imposes this requirement or there is an ordinance pertaining to aircraft and/or aviation activities occurring within the boundaries of the county or municipality.

DEVELOPMENT STANDARDS

Development standards convey the design and construction standards and procedures governing the development of any aeronautical or non-aeronautical land, infrastructure, and improvements on airport property. Similar to a homeowner agreeing to CC&Rs, which are designed to maintain property values and ensure that a neighborhood retains its desired character and appearance, entities wanting to develop airport land should be required to comply with development standards.

This document promotes attractive, high quality, environmentally sustainable, consistent, and compatible development; minimizes threats to health, safety, and general welfare of the public; and preserves and/or enhances the investment in infrastructure, improvements, and facilities made by existing entities at the airport. Development standards also apply to the modification of existing airport infrastructure, improvements, and facilities.

TTF entities contemplating the design, construction, and/or modification of aviation (and related) infrastructure, improvements, or facilities on TTF property should be required to adhere to the same or similar development standards as on-airport entities. The use of development standards serves to protect property values (on and off the airport) and retain the desired character and appearance of the airport, as established by airport management and policymakers. Some of the specific development standards that should be considered pertaining to TTF operations are discussed in Chapter 7: Managing TTF Operations.

Best Practice

4.5 WRAP-UP

This chapter discussed the specific planning, management, and compliance tools that can be utilized by airport management and policymakers to maintain compliance with applicable federal and state obligations and help ensure that the airport is being planned, developed, operated, and managed to ensure the safety, utility, and efficiency of the airport for the benefit of the public. A summary of each of the tools discussed in this chapter follows:

- **primary planning documents**
 - an **airport strategic business plan** establishes the airport's mission, vision, values, goals, and objectives;
 - an **airport master plan** conveys the airport's short-, medium-, and long-term planning and development goals;
 - an **airport layout plan** depicts the existing land, infrastructure, and improvements on the airport and planned capital improvement projects;
- **airport sponsor regulatory measures**
 - **ordinances** protect public health, safety, and general welfare;
 - **zoning codes** permit, restrict, and/or prohibit specific land uses, consistent with the applicable land use plans (that mitigate adverse impacts and minimize incompatible land uses);
 - **building codes** stipulate minimum acceptable levels of safety for the design and construction of infrastructure, improvements, and facilities;
- **primary management and compliance documents**
 - a **leasing/rents and fees policy** sets forth the parameters for leasing airport land and improvements and outlines the process for establishing and adjusting rents and fees;
 - **minimum standards** convey the qualifications and minimum requirements that must be met as a condition for the right to conduct a commercial aeronautical activity at an airport;
 - **rules and regulations** ensure the safety, utility, and efficiency of the airport for the benefit of the public; and
 - **development standards** govern the design, construction, or modification of infrastructure, improvements, and facilities on the airport.

CHAPTER FIVE

ASSESSING TTF OPERATIONS

- 5.1 Introduction
- 5.2 Process for Assessing TTF Operations
- 5.3 Alternative Assessment
- 5.4 Airport Sponsor Obligations
- 5.5 Primary Planning Documents
- 5.6 Airport Sponsor Regulatory Measures
- 5.7 Primary Management and Compliance Documents
- 5.8 Land, Infrastructure, and Improvements
- 5.9 Activities
- 5.10 Interested Parties
- 5.11 Wrap-Up
- 5.12 Worksheets

If the airport sponsor...

- has an existing TTF operation/agreement pending renewal
- has solicited or received a proposal for TTF operations
- is considering permitting TTF operations in the future

Then read...

- Chapter 5: Assessing TTF Operations* to:
- guide assessment process
 - identify advantages and disadvantages
 - identify positive and negative impacts

5.1 INTRODUCTION

Assessing TTF operations is one of the most crucial steps an airport sponsor can take when deciding to permit, restrict, or prohibit TTF operations. By evaluating the advantages and disadvantages of TTF operations and ascertaining the impacts associated with TTF operations, airport management and policymakers will have the information needed to make an informed, prudent, and defensible decision regarding permitting, restricting, or prohibiting TTF operations.

An airport sponsor that attempts to eliminate an existing TTF operation, deny a proposed TTF operation, or restrict or prohibit future TTF operations without conducting a proper assessment may:

- **forego opportunities** to increase revenues;
- **stymie outside investment** at and/or adjacent to the airport (possibly impacting the airport's ability to be financially self-sustaining);
- **limit the capacity of the airport** by not allowing the use of off-airport land (when on-airport land is insufficient) to meet the demand for aviation products, services, and facilities;
- **prevent the creation of job opportunities** within the local community and/or at the airport; and/or
- **preclude expansion of the local tax base**.

Conversely, an airport sponsor that approves a TTF operation without conducting a proper assessment may:

- have to **deal with incompatible land use** issues relating to the improvements made on and/or adjacent to the airport and the associated TTF activities;
- be found **non-compliant with federal and/or state obligations**;
- **end up with a non-compatible TTF operation** with the airport's primary planning documents (including the airport's mission and vision) and/or the airport's policies, standards, rules, and regulations (i.e., primary management and compliance documents);

- **impact the viability of and relationships with existing operators, tenants, and users;**
- **incur unbudgeted financial impacts; and/or**
- **be subject to a myriad of other undesirable impacts** (e.g., airside, landside, real estate, airspace, etc.).

As such, this chapter provides a best practice approach for assessing TTF operations at a federally obligated airport. Before reading the balance of this chapter, it is recommended that the worksheets provided in Section 5.12: Worksheets be printed as the worksheets are referenced throughout this chapter.

5.2 PROCESS FOR ASSESSING TTF OPERATIONS

Whether existing, proposed, or future TTF operations are being assessed, the ultimate goal of the assessment is to ensure that the federally obligated airport can be planned, developed, operated, and managed to ensure the safety, utility, and efficiency of the airport for the benefit of the public and that TTF operations are aligned with the airport's planning, management, and compliance documents (as discussed in Chapter 4: Airport Planning, Management, and Compliance Tools).

ASSESSMENT SCENARIOS

The assessment process and the tools discussed in this chapter should be utilized when an airport sponsor is desirous of evaluating the advantages and disadvantages of TTF operations and ascertaining the impacts associated with TTF operations.

It is important to note that it can be difficult to broadly assess the opportunities and issues of TTF operations without focusing on a specific type of TTF activity. Therefore, it may be necessary and appropriate to conduct multiple assessments (one for each type of TTF activity) to formulate a policy on TTF operations.

EXISTING TTF OPERATIONS

If an existing TTF operation has not been assessed, depending on the terms and conditions of the TTF agreement (if one exists), the opportunities and issues associated with allowing the continuation of the TTF operation through renewal of the TTF agreement, modifying the terms and conditions of the existing TTF agreement, or prohibiting the existing TTF operation by terminating the TTF agreement should be assessed.

An assessment of existing TTF operations should always be conducted before renewing an existing TTF agreement and during the development (or update) of the airport's strategic business plan, master plan, ALP, and other planning, management, and compliance documents.

Best Practice

PROPOSED TTF OPERATIONS

A thorough assessment of proposed TTF operations may reduce or eliminate the complications commonly associated with proposals made by prospective TTF entities and the evaluation of such proposals by airport management and policymakers.

If a prospective TTF entity fully understands the assessment process and the criteria for evaluating TTF proposals, the entity will be in a better position to make an educated decision on whether to submit a proposal or not and if the entity decides to submit a proposal, it is more likely that such a proposal will be responsive to the assessment criteria. Equally important, if airport management and policymakers are fully aware of the opportunities and issues associated with a proposed TTF operation, it is more likely that an informed recommendation and/or decision can be made.

Before an airport sponsor solicits proposals for TTF operations, a thorough assessment process should be formulated and before accepting a proposal, the assessment process should be implemented (i.e., the proposal should be evaluated accordingly).

Best Practice

FUTURE TTF OPERATIONS

By developing a policy on TTF operations and a thorough assessment process (if TTF operations are going to be permitted), an airport sponsor can encourage, discourage, or prohibit future proposals for TTF operations.

An airport sponsor should assess whether or not, from a policy standpoint, to permit, restrict, or prohibit future TTF operations (overall or specific types of TTF activities only) during the development (or update) of the airport's strategic business plan, master plan, ALP, and other planning, management, and compliance documents.

Best Practice

ASSESSMENT PROCESS

The first steps in a TTF operations assessment process typically include:

- educating airport management, policymakers, and stakeholders about the reasons for and the value of conducting an assessment of TTF operations;
- determining whether to use an internal, external, or combination approach to conduct assessment;
- soliciting input from airport management, policymakers, and stakeholders during the assessment process;
- forming the assessment team and selecting a facilitator; and
- briefing the assessment team about the reasons for and the value of conducting an assessment.

The assessment process includes an analysis of each of the following areas (each discussed in this chapter):

- Alternative Assessments
- Airport Sponsor Obligations
- Primary Planning Documents
- Airport Sponsor Regulatory Measures
- Primary Management and Compliance Documents
- Land, Infrastructure, and Improvements
- TTF Activities
- Interested Parties

During any assessment process, there are points in the process that can lead to “go” or “no-go” decisions as negative impacts are evaluated against positive impacts. Similarly, the TTF assessment process discussed in this chapter includes several “stop signs” where the assessment team should strongly consider the disadvantages of TTF operations in comparison to the advantages before moving forward. **Figure 5-1** provides a recommended assessment process and the associated “stop signs.” The assessment process is designed to assist the assessment team with:



- identifying alternatives to TTF operations;
- evaluating the advantages and disadvantages associated with TTF operations;
- ascertaining the impacts of TTF operations; and
- collecting the information needed to make an informed recommendation and/or decision regarding permitting, restricting, or prohibiting TTF operations.

FIGURE 5-1: Assessment Process Guide

- Step 1 Form Assessment Team
- Step 2 Complete Worksheet 5-1: TTF Operation Profile
- Step 3 Complete Worksheet 5-2: Airport Profile
- Step 4 Complete Worksheet 5-3: TTF Operation Assessment

Assess Alternatives:

- Ability for TTF operation(s) to be accommodated on-airport
- Ability to "move the fence"

Check for compliance with Airport Sponsor Obligations:

- Airport Sponsor Assurances

If it does not, then



Check for conformance with Primary Planning Documents:

- Airport Strategic Business Plan
- Airport Master Plan
- Airport Layout Plan

If it does not, then



Check for compliance with Airport Sponsor Regulatory Measures:

- Ordinances
- Zoning Codes
- Building Codes

Check for adherence with Primary Mgmt & Compliance Documents:

- Leasing/Rents and Fees Policy
- Minimum Standards
- Rules and Regulations
- Development Standards

Assess the impact on airport land, infrastructure, and improvements:

- Airside land, infrastructure, & improvements
- Landside land, infrastructure, & improvements
- Real estate land, infrastructure, & improvements

Evaluate the impact on existing and future airport activities:

- Commercial aeronautical activities
- Non-commercial aeronautical activities
- Non-aeronautical activities

Assess the impact of the TTF operation(s) on interested parties:

- FAA
- State Aviation Organization
- Airport Sponsor
- Airport Operators, Tenants, and Users
- Adjacent property owners
- Community

- Step 5 Develop a recommendation/decision to:

Renew, modify, or terminate the TTF agreement for an existing operation

Approve or deny a proposed TTF operation

Adopt a policy to permit, restrict, or prohibit future TTF operations.

The second step in the assessment process for TTF operations is completion of **Worksheet 5-1: TTF Operation Profile** (provided in Section 5.12: Worksheets). This worksheet is designed to help the assessment team gain a better understanding of the elements and attributes associated with the TTF operation. The information required to complete this worksheet can be obtained from existing TTF agreements, applications or proposals for conducting TTF operations, and/or information provided by (and/or meetings with) existing or prospective TTF entities. **Figure 5-2** includes a snapshot of this worksheet.



FIGURE 5-2: Snapshot of Worksheet 5-1 – TTF Operation Profile

WORKSHEET 5-1: TTF OPERATION PROFILE		
Airport Name:	Type of TTF Operation: <input type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Future	Type of TTF Activity: <input type="checkbox"/> Residential <input type="checkbox"/> Commercial Aeronautical <input type="checkbox"/> Non-Commercial Aeronautical <input type="checkbox"/> Non-Aeronautical <input type="checkbox"/> Governmental/Military
TTF Entity Name:	Type of TTF Entity: <input type="checkbox"/> Private Property Owner <input type="checkbox"/> Public Property Owner <input type="checkbox"/> Lessee <input type="checkbox"/> Sublessee <input type="checkbox"/> Home Owners Association	
TTF PROPERTY		
Attributes of TTF property (existing and/or proposed)		
Location (in relationship to the airport)		
Size (acreage, square feet, and linear feet of airport frontage)		
Airside infrastructure access		
Proximity to airport infrastructure (apron, taxiways, runways)		
Landside infrastructure access		
Availability of utilities		
Ordinance restrictions		
Zoning restrictions		
Building restrictions		
Known environmental issues		
Safety, utility, and efficiency impacts		

The third step in the assessment process is completion of **Worksheet 5-2: Airport Profile** (provided in Section 5.12: Worksheets). This worksheet is designed to help the assessment team gain a better understanding of the elements and attributes associated with the airport that could be enhanced based on the positive impacts associated with TTF operations and/or that could be diminished based on the negative impacts associated with TTF operations. The information required to complete this worksheet can be provided by airport management/staff and policymakers. **Figure 5-3** includes a snapshot of this worksheet.



FIGURE 5-3: Snapshot of Worksheet 5-2 – Airport Profile

WORKSHEET 5-2: AIRPORT PROFILE	
Airport Name:	
AIRPORT LAND AND IMPROVEMENTS	
Available Land	
Location	
Size (acreage, square feet)	
Airside infrastructure access	
Landside infrastructure access	
Availability of utilities	

Using the information from Worksheet 5-1 and 5-2, the fourth step in the assessment process is completion of **Worksheet 5-3: TTF Operation Assessment** (provided in Section 5.12: Worksheets). This worksheet, which consists of a series of questions (key assessment points) for the assessment team, is designed to help identify and evaluate the advantages and disadvantages of TTF operations and ascertain the impacts associated with TTF operations. The guidance provided in the next several pages of this chapter will be helpful for completing this worksheet. **Figure 5-4** includes a snapshot of this worksheet.

**FIGURE 5-4: Snapshot of Worksheet 5-3 – TTF Operation Assessment**

WORKSHEET 5-3: TTF OPERATION ASSESSMENT			
Airport Name:	Type of TTF Operations:	Type of TTF Activity:	
	<input type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Future	<input type="checkbox"/> Residential <input type="checkbox"/> Commercial Aeronautical <input type="checkbox"/> Non-Commercial Aeronautical <input type="checkbox"/> Non-Aeronautical <input type="checkbox"/> Governmental/Military	
ALTERNATIVE ASSESSMENT			
See Section 5.3			
Can existing on-airport land, infrastructure, and/or improvements accommodate the TTF operations?			
Comments:	<input checked="" type="radio"/> NO	<input type="radio"/> MAYBE	<input type="radio"/> YES
			<input type="radio"/> N/A
Is the entity willing to lease existing on-airport land and/or improvements that can accommodate the TTF operations?			
Comments:	<input checked="" type="radio"/> NO	<input type="radio"/> MAYBE	<input type="radio"/> YES
			<input type="radio"/> N/A
Is the entity willing to donate or sell the TTF property to the airport sponsor (can the fence be moved to accommodate the TTF operations)?			
Comments:	<input checked="" type="radio"/> NO	<input type="radio"/> MAYBE	<input type="radio"/> YES
			<input type="radio"/> N/A

The final step in the assessment process is a holistic review of the responses provided to the questions posed in **Worksheet 5-3: TTF Operation Assessment** and formulation of a recommendation regarding whether or not:

- a TTF agreement for an existing TTF operation should be renewed, modified, or terminated;
- a proposed TTF operation should be approved or denied; and/or

- a policy should be adopted to permit, restrict, or prohibit future TTF operations.

5.3 ALTERNATIVE ASSESSMENTS

Before evaluating the advantages and disadvantages and ascertaining the impacts associated with TTF operations, the viability of implementing one of the following alternatives should be carefully considered:

- The first alternative involves assessing existing on-airport land, infrastructure, and improvements to determine if the TTF operation can be accommodated on-airport. If so, airport management and policymakers should determine the willingness of the TTF entity to relocate the existing TTF operation or site the proposed TTF operation on-airport.
- The second alternative involves assessing the ability of the airport sponsor to acquire the TTF property and effectively “move the fence.” This could involve the donation or sale of the TTF property to the airport sponsor in return for entering into a lease agreement or “leasing back” the property (so long as the terms and conditions of the lease are fair and reasonable and consistent with the airport sponsor’s obligations). The availability of federal and/or state funds is typically a significant factor to consider if the TTF property is going to be purchased by the airport sponsor. It is important to note that 49 CFR Part 24 (Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs) may apply if AIP funds are utilized or the airport sponsor is seeking FAA approval (i.e., amendment of ALP).



5.4 AIRPORT SPONSOR OBLIGATIONS

As discussed in Chapter 2: Airport Sponsor Obligations, airport sponsors of federally obligated airports must maintain compliance with numerous federal and state obligations to remain eligible for public funding. These obligations are one of the ways federal and state agencies can ensure that an airport is being planned, developed, operated, and managed to ensure the safety, utility, and efficiency of the airport while also protecting the public’s investment in airports and the public’s use of airports.

Airport management and policymakers must fully understand the obligations that are applicable to the airport and TTF operations in order to assess the airport sponsor’s ability to maintain compliance with such obligations and remain eligible for federal and state funding. Further, consultation with the FAA and SAO on TTF operations is highly recommended to ensure that the FAA and SAO do not have any objections to the intentions of the airport sponsor and that the actions or inactions of the airport sponsor relating to TTF operations will not result in a finding of non-compliance by the FAA or SAO.

Best Practice



As discussed in the FAA Policy Regarding Access to Airports From Residential Property in the *Federal Register*, the FAA will not concern itself with commercial non-aeronautical TTF activities as long as the airport sponsor is able to maintain compliance with its obligations.

Any determination by the assessment team, airport management and policymakers, the FAA, or SAO that a TTF operation could result in a finding of non-compliance should stop the assessment process immediately and trigger the implementation (if possible) of an alternative approach to TTF operations that would allow the airport sponsor to maintain compliance with federal and state obligations. If an airport sponsor is found in non-compliance, this could result in the loss of future federal and state funds and the FAA, SAO, and others could take legal and administrative action against the airport sponsor.

As such, an assessment of the airport sponsor’s ability to maintain compliance with each federal and state obligation is an important initial step in the assessment process.

AIRPORT SPONSOR ASSURANCES

While each of the following Airport Sponsor Assurances were introduced and discussed in Chapter 2: Airport Sponsor Obligations, this section summarizes the obligations associated with each assurance to help the assessment team assess the airport sponsors' ability to maintain compliance with each assurance. It is recommended that the assessment team review the information in Chapter 2 to fully understand the obligations associated with each of the following assurances.

ASSURANCE 5 (PRESERVING RIGHTS AND POWERS)

This assurance requires that the airport sponsor preserve its rights and powers to perform the terms, conditions, and assurances associated with receiving AIP funds. This includes not placing contractual and legal encumbrances or conditions on airport property.

Additionally, guidance on assessing the airport sponsor's ability to maintain compliance with this assurance is provided in the CGL. While the guidance provided in the CGL is focused on residential TTF activities, it still provides valuable insight into how the FAA may view TTF agreements for other types of TTF activities at federally obligated airports.

In the case of existing residential TTF activities at commercial service airports (new residential TTF activities as commercial service airports are prohibited), the FAA will request the following information, data, and/or documentation during its assessment of a TTF operation to determine whether or not the airport sponsor will be able to maintain compliance with this assurance. It is reasonable to anticipate that the FAA may request the same or similar information, data, and/or documentation for other types of TTF activities at other types of airports if the airport sponsor asks the FAA to review an existing or proposed TTF agreement.

- Copies of the:
 - TTF agreement and airport sponsor ordinances, policies, standards, rules, and regulations pertaining to TTF operations and
 - aviation easements relating to the TTF property
- Description of the:
 - TTF operation and the terms and conditions of the TTF agreement;
 - subordination of the TTF agreement (to the *Airport Sponsor Assurances*);
 - current zoning for the airport and adjacent land;
 - airport sponsor's legal ability to influence the zoning for the airport and adjacent land;
 - steps taken to limit non-compatible zoning for the airport and adjacent land;
 - TTF access controls, signage, and/or markings that will be utilized by the airport sponsor to control access to the airport's airside infrastructure and address safety, utility, and efficiency concerns;
 - process utilized to educate the local community and TTF entities on the airport sponsor's obligations; and
 - plans, if any, to eliminate TTF operations.

ASSURANCE 19 (OPERATION AND MAINTENANCE)

This assurance requires that airport management and policymakers plan, develop, operate, and manage the airport's movement and non-movement areas to ensure the safety, utility, and efficiency of the airport for the benefit of the public.

In the case of existing residential TTF activities at commercial service airports, the FAA will request the following information, data, and/or documentation during its assessment of TTF operations to determine whether or not the airport sponsor will be able to maintain compliance with this assurance. It is reasonable to anticipate that the FAA may request the same or similar information, data, and/or documentation for other types of TTF activities at other types of airports if the airport sponsor asks the FAA to review an existing or proposed TTF agreement.

- Copy of the airport sponsor ordinances, policies, standards, rules, and regulations relating to TTF operations
- Description of the:
 - procedures to enforce the airport sponsor's ordinances, policies, standards, rules, and regulations relating to TTF operations;
 - rules and regulations the airport sponsor will impose on transient aircraft for utilizing TTF access points and the way such rules and regulations will be communicated and enforced;
 - mechanisms and/or procedures that will be used to separate aircraft, vehicles, and pedestrians;
 - procedures for aircraft that will access each runway threshold from the TTF access points;
 - mechanisms that will be used to prevent, monitor, and enforce domestic activities (i.e., walking dogs, playing games and sports, etc.) from occurring on-airport, and particularly within the AOA associated with runway safety areas, runway protection zones, runway object free zones, taxiway safety areas, obstacle free areas, object free areas, and primary surface areas;
 - mechanisms that will be used to prevent, monitor, and enforce the establishment of potential wildlife attractants (e.g., water detention ponds, gardens, composting areas, etc.) near the airport; and
 - aircraft taxi routes associated with the TTF access points that could preclude the airport sponsor from meeting FAA design standards and the way the airport sponsor intends to meet such standards in the future.

ASSURANCE 20 (HAZARD REMOVAL AND MITIGATION)

A thorough understanding of the infrastructure and improvements that will be developed and the activities that will take place on the TTF property will be essential to assess the airport sponsor's ability to maintain compliance with this assurance. Further, review of FAA Form 7460-1 (Notice of Proposed Construction or Alteration on Airport), available online at <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>, which must be submitted by the TTF entity or the airport sponsor, will be helpful in making this determination.



The FAA has an online tool to determine if the form needs to be filed and if so, the FAA requires that the form be completed and submitted online. It is significant to note that FAA determinations with regard to construction of obstructions are only advisory in nature and that the local zoning authority provides the ultimate determination consistent with local zoning codes which reinforces the importance of having zoning codes for land located adjacent to airports.

In the case of existing residential TTF activities at commercial service airports, the FAA will request the following information, data, and/or documentation during its assessment of a TTF operation to determine whether or not the airport sponsor will be able to maintain compliance with this assurance. It is reasonable to anticipate that the FAA may request the same or similar information, data, and/or documentation for other types of TTF activities at other types of airports if the airport sponsor asks the FAA to review an existing or proposed TTF agreement.

- mechanisms and airspace studies used by the airport sponsor to ensure that infrastructure and improvements on TTF property will not penetrate the airport's protected and imaginary surfaces;
- mechanisms used by the airport sponsor to require TTF entities to complete FAA Form 7460-1 when infrastructure, improvements, and facilities are proposed to be made or modified on TTF property;
- mechanisms used by the airport sponsor to require TTF entities to remove, lower, relocate, mark, light, or otherwise mitigate trees or any other potential or existing airspace obstructions; and
- powers and/or authorities the airport sponsor may have to prohibit new construction on and/or off the airport which may be a hazard to air navigation.

ASSURANCE 21 (COMPATIBLE LAND USE)

Zoning and land use plans (both discussed in Chapter 4: Airport Planning, Management, and Compliance Tools) can be utilized by an airport sponsor to assess the compatibility of a TTF operation. Compatible land uses are often determined by the location, height, and type of activity; the impact on aircraft movement (on the ground and in the air) and airport operations; and the public's health, safety, and general welfare. Examples of incompatible land use adjacent to or within the airport influence area include:

- manmade, natural, permanent, or temporary structures and objects that may impact the use of airspace;
- lights that may distract flight crews or air traffic control personnel;
- wetlands, landfills, landscaping, or vegetation that may be capable of attracting wildlife or creating a "foreign object debris" (FOD) hazard on the airport;
- antennas that transmit signals that may be capable of interfering with radio transmissions and/or navigational aids;
- facilities that may be adversely impacted by airport noise, vibrations, or fumes (e.g., residences, schools, churches, public health facilities, concert halls, etc.);
- solar panels that may create reflectivity/glare issues; and
- land areas or facilities where large numbers of people may congregate in designated airport safety areas.

In the case of existing residential TTF activities at commercial service airports, the FAA will request the following information, data, and/or documentation during its assessment of TTF operations to determine whether or not the airport sponsor is able to maintain compliance with this assurance. It is reasonable to anticipate that the FAA may request the same or similar information, data, and/or documentation for other TTF activities at other types of airports if the airport sponsor asks the FAA to review an existing or proposed TTF agreement.

- mechanisms used by the airport sponsor to monitor proposed and actual zoning changes or designations in land use adjacent to the airport;
- airport sponsor plans to avoid residential encroachment and other non-compatible land uses near the airport;
- existing or proposed actions the airport sponsor has taken/will take to educate the zoning authorities about the airport sponsor's obligations;
- existing or proposed plans the airport sponsor has to acquire aviation easements over land near the airport;
- airport sponsor's assessment of the compatibility (or the lack of compatibility) between TTF operations and existing, proposed, or future activities at the airport and the airport sponsor's plan to address incompatibilities;
- local or state requirements or limitations pertaining to the proximity of residential structures to aeronautical activities; and
- methodology used by the airport sponsor to receive and track noise complaints and promote the airport's noise program to the community.

ASSURANCE 22 (ECONOMIC NONDISCRIMINATION)

While TTF entities operating solely from TTF property (i.e., entities not leasing on-airport land, infrastructure, or improvements nor attempting to relocate TTF operations on-airport) are not protected by this assurance and the FAA will not entertain complaints from TTF entities relating to this assurance, the airport sponsor must assess whether its ordinances, policies, standards, rules, and regulations relating to TTF operations and the terms and conditions of its TTF agreements are (or will be) unjustly discriminatory from the perspective of on-airport operators, tenants, and/or users.

ASSURANCE 23 (EXCLUSIVE RIGHTS)

As with Assurance 22, TTF entities operating solely from TTF property are not protected by this assurance. However, the airport sponsor should not grant an exclusive right to engage in aeronautical activities (including commercial aeronautical activities) to a TTF entity. Granting an exclusive right may violate the rights of existing or future on-airport operators, tenants, and/or users and may also have an adverse impact on the airport sponsor's ability to maintain compliance with this assurance.

ASSURANCE 24 (FEE AND RENTAL STRUCTURE)

The development and implementation of a leasing/rents and fees policy (as discussed in Chapter 4: Airport Planning, Management, and Compliance Tools) can help an airport sponsor meet the goal of being as financially self-sustaining as possible given the circumstances that exist at the airport, which is foundational to maintaining compliance with this assurance. Establishing a rents and fees schedule for TTF operations (as discussed in Chapter 6: Structuring TTF Operations) that provides economic parity (at a minimum) with on-airport operators, tenants, and users will also help an airport sponsor maintain compliance with this assurance.

In the case of existing residential TTF activities, the FAA will request a description of the way an airport sponsor assesses and collects fees from TTF entities, the transient users of TTF properties, and on-airport operators, tenants, and users during its assessment of TTF operations. It is reasonable to anticipate that the FAA may request the same information for other types of TTF activities at other types of airports if the airport sponsor asks the FAA to review an existing or proposed TTF agreement.

As discussed in the final FAA Policy Regarding Access to Airports From Residential Property in the *Federal Register* (Vol. 78, No. 136, Page 42419) and other FAA guidance, airport sponsors should establish rents and fees for TTF operations that are comparable to the rents and/or fees being charged to on-airport operators, tenants, and users.



ASSURANCE 29 (AIRPORT LAYOUT PLAN)

In theory, compliance with this assurance should be relatively easy for airport sponsors. However, airport sponsors have historically made modifications to airport boundaries, land use, infrastructure, and improvements without updating the ALP. The importance of maintaining compliance with this assurance, as it relates to TTF operations was reemphasized in Section 136 which stipulates that the ALP must show all TTF access points (as discussed in Chapter 2: Airport Sponsor Obligations).

In the case of existing residential TTF activities at commercial service airports, the FAA will request the following information, data, and/or documentation during its assessment of TTF operations to determine whether or not the airport sponsor is able to maintain compliance with this assurance. It is reasonable to anticipate that the FAA may request the same or similar information, data, and/or documentation for other TTF activities at other types of airports if the airport sponsor asks the FAA to review an existing or proposed TTF agreement.

- dimensions for taxiways and taxilanes associated with TTF operations and depiction (of same) from the airport boundary to existing airside infrastructure;
- dimensions of all safety areas and depiction (of same);

- depiction of obstruction surfaces (e.g., Part 77, threshold siting, and all design surfaces discussed in AC 150-5300-13, Airport Design, etc.);
- depiction of elevations of all existing and proposed improvements and facilities associated with TTF operations and associated penetrations of airport protected or imaginary surfaces;
- ascertain if any existing or proposed improvements or facilities associated with TTF operations impact existing or proposed navigational aids or other equipment;
- determine if the airport sponsor maintains control of all runway protection areas and runway protection zones;
- determine if the air traffic control tower (if existent) has a clear line of sight to view all TTF access points; and
- identify the physical or procedural access controls used to separate TTF operations from on-airport property.

REMAINING AIRPORT SPONSOR ASSURANCES

While the assurances discussed in this chapter are deemed most relevant to TTF operations, an airport sponsor's ability to comply with the remaining assurances may be impacted by existing, proposed, or future TTF operations. Airport management and policymakers should regularly review the assurances the airport sponsor has made a commitment to comply with.

Best Practice

5.5 PRIMARY PLANNING DOCUMENTS

As discussed in Chapter 4: Airport Planning, Management, and Compliance Tools, there are several tools that airport management and policymakers can develop, implement, and enforce to maintain compliance with federal and state obligations and plan, develop, operate, and manage the airport to ensure the safety, utility, and efficiency of the airport for the benefit of the public. This includes primary planning documents (discussed in this section), airport sponsor regulatory measures (discussed in Section 5.6), and primary management and compliance documents (discussed in Section 5.7).

AIRPORT STRATEGIC BUSINESS PLAN

An airport strategic business plan identifies the mission, vision, goals, objectives, action plans, and budgets that drive the day-to-day operation and management of an airport. Therefore, an assessment of the impact a TTF operation could have on the airport sponsor realizing the mission and vision for the airport, achieving goals and objectives, and accomplishing action plans must be completed.

Determination by the assessment team that a TTF operation could have a significant negative impact on realizing, achieving, and/or accomplishing one or more of the elements of the airport strategic business plan should stop the assessment process and trigger the implementation (if possible) of an alternative approach to TTF operations.

A brief discussion of each of the key elements of an airport strategic business plan (and potential considerations relating to assessing TTF operations) follows.

MISSION STATEMENT

An airport's mission statement conveys the reason for an airport's existence and may identify the core competencies of the organization as well. TTF operations should not conflict with the airport's mission statement nor undermine the ability of the airport sponsor to realize the airport's mission.

An example of an airport mission statement that may not be in conflict with TTF operations follows (the underlined sections may be supported by TTF operations):

- The Airport is committed to providing a safe, efficient, convenient and economically self-sustaining air transportation facility consistent with state and federal obligations and responsive to airport-user and community needs while supporting and promoting the region's economic growth and development.

An example of an airport mission statement that may be in conflict with TTF operations follows (the underlined sections may be in conflict with TTF operations):

- The Airport is a community airport that provides high quality aviation facilities and services to meet local needs and strives for low impact on our neighbors while enhancing the benefit to the community-at-large.

VISION STATEMENT

An airport's vision statement articulates the aspirations for the airport; it is a picture of success. TTF operations should not conflict with the airport's vision statement nor undermine the ability of the airport sponsor to realize the vision for the airport.

An example of an airport vision statement that may not be in conflict with TTF operations follows (the underlined sections may be supported by TTF operations):

- The Airport team will use a people-centered approach to provide our community with superior aviation facilities, custom solutions, continuous economic development and a proactive workforce that enhances our reputation as judged by our customers, employees, and board members.

An example of an airport vision statement that may be in conflict with TTF operations follows (the underlined sections may be in conflict with TTF operations):

- To become the premier airport in the region by meeting the needs of consumers through maximization of the public asset and full utilization of the related land and facilities in a safe, secure, efficient, compliant, compatible and financially sound manner.

GOALS AND OBJECTIVES

Goals represent the desired results, outcomes, or levels of attainment that need to be achieved to realize the airport's mission and vision. An objective is a significant step toward achieving a goal; it is a means to an end. TTF operations should not conflict with (or undermine the potential to achieve) the goals and objectives that have been established for the airport.

An example of an airport goal that may not be in conflict with TTF operations (the underlined sections may be supported by TTF operations):

- Provide economic development opportunities, both on and off-airport, through support of investment zones and appropriate corporate incentives that support the mission of the airport and community owners.

An example of an airport goal that may be in conflict with TTF operations (the underlined sections may be in conflict with TTF operations):

- Lease 400 acres of on-airport land to bring new business to enhance airport revenues and job growth in the greater region.

OPERATING BUDGET

An airport's operating budget identifies the forecasted operating revenues, cost of revenues, and operating expenses for the airport over a specific period of time (typically associated with the fiscal year of the airport). Some of the possible impacts on an airport's operating budget associated with TTF operations could include:

- operating revenues generated by
 - on-airport FBOs and SASOs that provide commercial aeronautical products, services, and/or facilities to TTF entities;
 - TTF entities that have TTF access and engage in TTF activities; and
 - transient customers who utilize TTF access points to visit TTF entities.
- operating expenses associated with
 - on-airport land, infrastructure, and improvements that facilitates TTF access, and
 - increased usage of airside land, infrastructure, and improvements associated with the aircraft based on or utilizing TTF property.

If an airport sponsor of a federally obligated airport utilizes airport funds for off-airport purposes (e.g., development of infrastructure development, construction of improvements, etc.), the airport sponsor could be found in non-compliance with the Airport Sponsor Assurances. However, airport sponsors may use airport revenue to make on-airport improvements to facilitate TTF operations.

NON-OPERATING BUDGET

An airport's non-operating budget identifies the forecasted non-operating sources of funds (e.g., federal, state, and local grant funds, subsidies, contributions from third parties, etc.) and use of funds (e.g., depreciation, amortization, interest, non-operating capital expenditures, etc.) for the airport over a specific period of time (typically associated with the fiscal year of the airport). Some of the possible impacts on an airport's non-operating budget associated with TTF operations include non-operating sources of funds and non-operating uses of funds that are associated with TTF operations including the planning and development of on-airport infrastructure and improvements that facilitate TTF access (and/or that have been justified based on the on-airport activity levels associated with TTF operations).

PERFORMANCE MEASURES

Performance measures are used to compare financial and operational results between current and historical periods and compare results to the performance of comparable and competitive airports, a practice commonly referred to as comparative analysis. In addition to the financial elements that are commonly used as performance measures (discussed in this chapter), there are a number of operational performance measures that can be impacted—positively or negatively—by TTF operations. Some examples follow:

- Leasable and leased land
 - Aviation and non-aviation
- Leasable and leased improvements
 - Aviation and non-aviation
- Aircraft operations
- Based aircraft
- Fuel volumes

AIRPORT MASTER PLAN/AIRPORT LAYOUT PLAN

AIRPORT MASTER PLAN

As discussed in the final FAA Policy Regarding Access to Airports From Residential Property in the *Federal Register* (Vol. 78, No. 136, Page 42419) for commercial service airports with residential TTF activities, an airport sponsor should have a current (updated within the last five years) airport master plan that identifies potential areas for growth that are not impacted by TTF operations. In the alternative, an airport sponsor should have a process for amending or terminating existing TTF agreements so that TTF property, which may be necessary for future airport expansion, can be acquired.

Best Practice

When assessing existing and proposed TTF operations, the assessment team should assess the impacts that the TTF operation could have on implementing the selected alternative of the current airport master plan.

When assessing future TTF operations and/or during the development (or update) of an airport master plan, the assessment team should assess the impacts that TTF operations could have on implementing the alternatives identified during the airport master planning process.

During the master planning processes, if demand in the market (for airport land, infrastructure, and/or improvements) is greater than the capacity at the airport, TTF operations could be a way to expand the capacity of the airport and meet the level of demand in the market. By pursuing this alternative, private property ownership and local property tax rolls could be maintained.

ALP

The potential impacts of TTF operations on immediate, near, and long-term development needs to be carefully considered. For example, if an airport sponsor is desirous of developing an airport perimeter fence, the presence of a TTF operation could hinder the project or prevent it from being completed altogether. While the airport sponsor could build a fence solely on airport property, the airport sponsor may want to include perimeter fencing around the TTF property as there will be a TTF access point to the airport. However, the airport sponsor may not have the right to construct a perimeter fence around or across private property (i.e., TTF property).

It is significant to note that Assurance 29 (Airport Layout Plan) requires that airport sponsors keep the ALP current and that “all proposed and existing access points used to taxi aircraft across the airport’s property boundary” be depicted on the ALP. If an airport sponsor is unable or unwilling to keep the ALP current, this could result in a finding of non-compliance by the FAA. In such a case, the assessment process should be stopped and this should initiate the identification and assessment of alternative approaches to TTF operations that would allow the airport sponsor to maintain compliance with Assurance 29 (Airport Layout Plans).

5.6 AIRPORT SPONSOR REGULATORY MEASURES

As discussed in Chapter 4: Airport Planning, Management, and Compliance Tools, an airport sponsor has the ability to regulate the planning, development, operation, management, and use of the airport. The power to regulate is derived from two primary sources: (1) as a regulatory body, which has been delegated powers (and responsibilities) through state enabling legislation, an airport sponsor can adopt ordinances, zoning codes, and building codes (discussed further in this section) and (2) as a land owner, the airport sponsor has the ability to adopt land-use plans and a wide variety of airport planning, management, and compliance documents (discussed in Section 5.7).

As such, the assessment team should assess whether a TTF operation will be compliant with the existing airport sponsor regulatory measures including ordinances, zoning codes, and building codes. It is important that this assessment include the regulatory measures of counties and municipalities having jurisdiction over the airport and land located adjacent to the airport.

Additionally, as part of this assessment, a determination should be made regarding the applicability of regulatory measures to TTF operations. If regulatory measures do not address TTF operations, the airport sponsor should consider developing new or amending existing ordinances, zoning codes, and building codes to specifically address the permitting, restricting, or prohibiting of TTF operations (as discussed in Chapter 6: Structuring TTF Operations and Chapter 7: Managing TTF Operations).

ORDINANCES

Ordinances are designed to protect the public's health, safety, and general welfare. With regard to ordinances, the assessment should determine if the TTF operation is (or would be) compliant with all applicable ordinances, not just the ordinances that are specific to TTF operations (if any). Assistance can be obtained from the code enforcement arm of the airport sponsor or the county or municipality, as the case may be. Most importantly, a determination needs to be made regarding compliance if an airport sponsor (or county or municipality) has adopted an ordinance that specifically addresses TTF operations.

ZONING CODES

Zoning codes identify the permitted, restricted, and prohibited uses of land within a community (e.g., residential, commercial, industrial, institutional, infrastructure, agricultural, open space, etc.). In addition to addressing the use of the land, zoning codes typically describe the permitted, restricted, and prohibited attributes of facilities (from a structural and architectural perspective) and discuss other features such as height, vehicle parking, and signage. As part of the assessment process, compliance with all applicable zoning codes should be evaluated.

Incompatible land use can threaten the safety, utility, and efficiency of an airport and the health, safety, and general welfare of the public. As part of the assessment process, a determination needs to be made as to whether or not the TTF operation is compatible with adjacent land uses.

For example, the land located adjacent to an airport may be planned (and zoned) for uses considered compatible with airport activities (i.e., with consideration given to the noise, odors, fumes, dirt, dust, and glare that may be generated by airport activities), but the use of such land for aeronautical purposes may not be compatible with the plans (or zoning) for nearby land. If TTF operations are permitted on the land located adjacent to an airport, non-compatibility issues may impact other land areas and/or activities. This can be especially important if a TTF operation is located adjacent to a residential area or other public area.

BUILDING CODES

Building codes stipulate the minimum acceptable levels of safety for the design and construction of infrastructure and buildings in order to protect the public health, safety, and general welfare during construction, use, and occupancy. In the event that applicable building codes do not address the unique attributes of aviation related infrastructure, improvements, and facilities that may be associated with the TTF operations, a determination should be made regarding the building standards that should be met.

5.7 PRIMARY MANAGEMENT AND COMPLIANCE DOCUMENTS

As discussed in Chapter 4: Airport Planning, Management, and Compliance Tools, airport sponsor ordinances, policies, standards, rules, and regulations (i.e., primary management and compliance documents) play a key role when it comes to the development, operation, and management of an airport.

As conveyed in the final FAA Policy Regarding Access to Airports From Residential Property and other FAA guidance, airport sponsors shall impose and enforce ordinances, policies, standards, rules, and regulations on TTF entities, similar to those imposed and enforced on on-airport operators, tenants, and users.

Regardless of the type of TTF activity, the assessment team should determine if the TTF operation will be compliant with relevant primary management and compliance documents (e.g., leasing/rents and fees policy, minimum standards, rules and regulations, development standards, etc.).

Additionally, if the airport's existing primary management and compliance documents do not specifically (or adequately) address TTF operations, the airport sponsor should consider developing new or updating existing policies, standards, rules, and regulations to properly address TTF operations (as discussed in Chapter 6: Structuring TTF Operations and Chapter 7: Managing TTF Operations).

Further, it is important to note that proposed TTF operations that are not consistent with the airport's existing primary management and compliance documents should not necessarily trigger an automatic denial by airport management and policymakers. A complete assessment of the opportunities and issues associated with the TTF operations should be conducted and if necessary, primary management and compliance documents could be modified based on the findings of the assessment.

LEASING/RENTS AND FEES POLICY

A leasing/rents and fees policy sets forth the parameters for leasing on-airport land and improvements, developing agreements, and establishing and adjusting on-airport rents and fees. With few exceptions, on-airport land and/or infrastructure will need to be utilized to facilitate TTF access. As such, the assessment should determine if the leasing of airport land and/or infrastructure (if needed to facilitate TTF access) will be compliant with the airport's leasing/rents and fees policy.

Further, the assessment should determine if the policy specifically (and adequately) addresses the unique attributes of TTF operations, the associated TTF agreement, and the methodology for establishing and adjusting the rents and fees associated with TTF access and related TTF activities (as discussed in Chapter 6: Structuring TTF Operations).

MINIMUM STANDARDS



Minimum standards establish the qualifications and minimum requirements that must be met as a condition for the right to conduct a commercial aeronautical activity. One of the easiest methods to ensure compliance with Assurance 22 (Economic Nondiscrimination) is to treat any commercial aeronautical TTF activities as if the activity were occurring on-airport. This requires that the TTF activity be conducted in full compliance with the airport's minimum standards including, but not limited to, scope of activity, land, improvements, facilities, equipment, licenses and certifications, employees, and hours of activity.

A TTF entity does not lease land to engage in a commercial aeronautical TTF activity. As such, minimum standards for TTF activities should identify the amount of land associated with the TTF property that would be required to engage in a particular activity versus the amount of land that would need to be leased. All other minimum standards should still apply.

RULES AND REGULATIONS

Rules and regulations apply to anyone who uses the airport at any time for any purpose and are typically established to protect the public health, safety, and general welfare on the airport and ensure the safety, utility, and efficiency of the airport for the benefit of the public. As such, the assessment should determine if the TTF activities and the related use of the airport by aircraft, vehicles, and pedestrians will be compliant with the airport's rules and regulations.

Further, the assessment should determine if the airport's rules and regulations specifically (and adequately) address TTF operations, the associated TTF activities, and TTF access (as discussed in Chapter 7: Managing TTF Operations).

DEVELOPMENT STANDARDS

Development standards convey the design and construction standards and procedures governing the development of aeronautical or non-aeronautical land, infrastructure, and improvements. While existing or proposed land, infrastructure, and improvements associated with TTF property are not located on-airport, the airport sponsor could, in the future, acquire the TTF property. Therefore, the assessment should determine if the TTF operation will be compliant with the airport's development standards. This is consistent with the approach of managing TTF operations as if the TTF activities were occurring on-airport.

However, it is important to note that most development standards will not, and should not, address residential structures or other non-aviation improvements that would not normally be constructed on an airport.

Further, the assessment should determine if the airport's development standards specifically (and adequately) addresses the unique attributes of TTF operations including the development of TTF access points and the associated infrastructure and improvements (as discussed in Chapter 7: Managing TTF Operations).

5.8 LAND, INFRASTRUCTURE, AND IMPROVEMENTS

Airport land, infrastructure, and improvements are commonly divided into four primary areas, as follows:

- **Airside**
 - runways, taxiways, taxilanes, aprons, roadways, lighting, utilities, navigational equipment, imaginary obstruction identification surfaces, airport design surfaces, etc.
- **Landside**
 - public roadways, public vehicle parking, lighting, utilities, etc.
- **Aviation real estate**
 - land and improvements leased or available for lease for the development of improvements for commercial and non-commercial aeronautical activities and land containing airport sponsor owned improvements leased or available for lease for commercial and non-commercial aeronautical activities
- **Non-aviation real estate**
 - land and improvements leased or available for lease for the development of improvements for commercial and non-commercial non-aeronautical activities and land containing airport sponsor owned improvements leased or available for lease for commercial and non-commercial non-aeronautical activities

By assessing the type and extent of the impact TTF operations will have in each of these four primary areas, airport management and policymakers will be better positioned to take advantage of positive impacts and/or manage or, if possible, eliminate negative impacts.

When assessing the type and extent of the impact TTF operations will have on airport land, infrastructure, and improvements, each of the elements and attributes associated with TTF operations (as identified in **Worksheet 5-1: TTF Operation Profile**) should be assessed against each of the elements and attributes associated with each of the four primary areas of airport land, infrastructure, and improvements (as identified in **Worksheet 5-2: Airport Profile** and discussed in the section that follows).



The availability and feasibility of utilizing on-airport land, infrastructure, and improvements to accommodate existing or proposed TTF operations should be assessed. Additionally, the TTF operation should be assessed against the airport master plan and ALP to identify any potential impacts on future capital projects (i.e., any changes planned for airport land, infrastructure, and/or improvements).

AIRSIDE LAND, INFRASTRUCTURE, AND IMPROVEMENTS

The introduction of aircraft (and if necessary, vehicles and pedestrians) to the airport's airside infrastructure from TTF property has the potential to create safety, utility, and efficiency risks and possible liability exposure for the airport sponsor. The nature and extent of the exposure will depend on such factors as the state's sovereign immunity statutes and the actions or inactions of the airport sponsor relating to assessing and managing the safety, utility, and efficiency risks associated with TTF operations.

TTF access points and associated on-airport infrastructure must provide safe and secure access to existing and future airside land, infrastructure, and improvements and not adversely impact the safety, utility or efficiency of the airport. Impacts could be related to safety, security, access controls, signage, lighting, and maintenance.

In accordance with FAA guidance, TTF access must not be provided directly to a runway and shall only be provided to an on-airport apron, taxilane, or taxiway. Additionally, the maximum gross takeoff weight and wing span of the aircraft utilizing TTF access points must be compatible with the weight bearing capacity of the applicable on-airport apron, taxilane, or taxiway and ultimately, with the runway.

NAVIGATIONAL AIDS

Airside improvements include on-airport navigational aids such as instrument landing systems (or ILS), localizers, glide slopes, marker beacons, nondirectional radio beacons (or NDB), VHF omni-directional ranges (or VOR), distance measuring equipment (or DME), etc. These navigational aids can be adversely impacted by improperly placed improvements or unanticipated activities on airport and adjacent property (including TTF property). Several airport managers with TTF operations that were interviewed as part of the research for this guidebook indicated that improvements on TTF property that had not been reviewed or approved (in advance of development) had caused or were causing interference issues with navigational aids. Consistent with the requirements of Part 77, airport management and policymakers must require that all existing and proposed TTF entities complete and submit (online) FAA Form 7460-1 to ensure that any improvements and/or activities on TTF property will not interfere with navigational aids or the associated airspace.

It is significant to note that if an obstruction is constructed without submission of an FAA Form 7460-1, the FAA will not provide any AIP funds to correct the obstruction and most likely, will raise the airport's approach minimums to address or mitigate the interference.

IMAGINARY SURFACES AND AIRPORT DESIGN SURFACES

Imaginary surfaces (e.g., primary, horizontal, conical, transitional, approach, etc.) and airport design surfaces (e.g., runway safety area, precision obstacle free zone, obstacle free zone, runway object free area, runway protection zone, etc.) associated with the airport's runways and taxiways need to be considered. These surfaces are discussed in:

- Part 77 – which establishes standards and notification requirements for objects affecting navigable airspace and associated imaginary obstruction identification surfaces
- AC 150/5300-13A – which establishes standards and provides recommendations for the geometric layout and engineering design of runways, taxiways, aprons, and other facilities



To protect the imaginary surfaces and airport design surfaces, all TTF structures should be located outside the runway safety area, precision obstacle free zone, obstacle free zone, runway object free area, and runway protection zone.

As previously discussed, submission of FAA Form 7460-1 provides the opportunity for the FAA to identify any potential hazards that would need to be addressed by a TTF entity (or the airport sponsor) before development. The shapes, dimensions, and locations of each of the imaginary obstruction identification surfaces and airport design surfaces are conveyed in the airport master plan.

LANDSIDE LAND, INFRASTRUCTURE, AND IMPROVEMENTS

TTF access points and associated on-airport infrastructure must not impact the safety, utility, or efficiency of existing and future on-airport landside land, infrastructure, and improvements. Impacts could be related to safety, security, access controls, signage, lighting, and maintenance.

In addition to the vehicles associated with TTF properties (i.e., vehicles operated by TTF entities), the assessment team should assess the impacts associated with vehicles utilizing the TTF access points from the airside (e.g., on-airport FBOs and SASOs providing commercial aeronautical products and services to TTF entities).

REAL ESTATE LAND, INFRASTRUCTURE, AND IMPROVEMENTS

TTF access points, associated infrastructure, and TTF activities must be compatible with aviation and non-aviation real estate land, infrastructure, and improvements. Impacts could result from use of the TTF access points and associated infrastructure by aircraft (and if necessary, vehicles and pedestrians) and such impacts could be related to safety, security, access controls, signage, lighting, and maintenance.

Aviation and non-aviation real estate land, infrastructure, and improvements are primarily associated with the leasing of airport land and improvements and/or the development of lessee improvements. Any impact on the leasing and/or development of existing or future aviation or non-aviation real estate land, infrastructure, and improvements should be assessed. For instance, if TTF access points and associated infrastructure require the use of on-airport land that could be developed in the future and generate revenues for the airport and jobs and taxes for the community, the impact of allowing land to be used for TTF operations should be evaluated against the benefits (to the airport and the community) of developing such land in the future.

Additionally, the availability and feasibility of utilizing on-airport land and improvements to accommodate existing or proposed TTF operations should be explored. Further, any impacts on people who may be occupying and/or using aviation or non-aviation real estate land, infrastructure, and/or improvements (e.g., noise, vibrations, odors, fumes, dirt, dust, and glare) should be assessed.

In **Figure 5-5** and **Figure 5-6**, which are based on a graphic from *ACRP Report 77: Guidebook for Developing General Aviation Airport Business Plan*, some examples of the types of improvements commonly developed on aviation and non-aviation real estate land are provided.

FIGURE 5-5: Aviation Real Estate Improvements

FAA	FBO	SASO	Aircraft Storage
<ul style="list-style-type: none"> - Control Tower - Approach Equipment - Navigation Equipment 	<ul style="list-style-type: none"> - General Aviation Terminal Building - Offices - Shops - Storage - Aircraft Hangars - Ramp - Vehicle Parking Areas - Fuel Storage 	<ul style="list-style-type: none"> - Customer Lounges - Offices - Shops - Storage - Aircraft Hangars - Ramp - Vehicle Parking Areas 	<ul style="list-style-type: none"> - Ramp (including tiedown spaces) - Shadeports - T-Hangars - Executive/Box Hangars - Community Hangars - Corporate Hangars - Maintenance Hangars

FIGURE 5-6: Non-Aviation Real Estate Improvements

Recreational	Commercial	Office and Storage	Other
<ul style="list-style-type: none"> - Campground - Entertainment Center - Golf Course - Hunting and Fishing - Hiking and Biking - State Park - Race (go-kart) Track - Gaming 	<ul style="list-style-type: none"> - Convenience Store - Hotel or Motel - Rental Car Facility - Restaurant - Shopping (retail) Center - Automobile Dealership - Gasoline Station - Car Wash 	<ul style="list-style-type: none"> - Educational Institution - Industrial Park - Office Building - Storage Units - Technology Park - Warehouse - Vehicle Parking - RV and Boat Storage 	<ul style="list-style-type: none"> - Advertising Billboards - Agriculture and Forestry - Cellular Telephone Towers - Oil, Gas, or Mineral Extraction, Production, or Exploration - Public Safety or Emergency Services

5.9 ACTIVITIES

In addition to assessing the impact a TTF operation may have on existing aviation and non-aviation real estate, land, infrastructure, and improvements, it is important to assess the impact a TTF operation may have on existing and future activities on the airport. Airport activities are commonly divided into three primary areas: **commercial aeronautical activities**, **non-commercial aeronautical activities**, and **non-aeronautical activities**. Each of these activities is defined in Chapter 1: Introduction.

By assessing the impact on each of these areas, airport management and policymakers will be better positioned to take advantage of positive impacts and/or manage or, if possible, eliminate negative impacts.

When assessing the impact a TTF operation can have on existing and future activities on the airport, each of the elements and attributes associated with the TTF operation (as identified in **Worksheet 5-1: TTF Operation Profile**) should be evaluated against each of the elements and attributes associated with each of the three primary activity areas (as identified in **Worksheet 5-2: Airport Profile** and discussed in more detail in this section).



COMMERCIAL AERONAUTICAL ACTIVITIES



The assessment of a commercial aeronautical TTF activity should include a demand/capacity analysis to determine if the level of demand in the market can support additional capacity (i.e., new or expanded aviation products, services, and/or facilities provided by a TTF entity). As part of the assessment, the impact a TTF operation may have on on-airport FBOs and SASOs should be ascertained. For instance, if a TTF entity engages in commercial aeronautical activities that are not being provided by current on-airport FBOs and/or SASOs, negative impacts will most likely be negligible. Conversely, if the additional capacity associated with the commercial aeronautical TTF activity exceeds the level of demand in the market, the impact will most likely be significant. Depending on the proximity of the TTF operation, impacts relating to safety, security, noise, odors, fumes, dirt, dust, and glare should be considered as well.

NON-COMMERCIAL AERONAUTICAL ACTIVITIES



The impact of non-commercial aeronautical TTF activities on non-commercial aeronautical airport entities will most likely be nominal. However, depending on the situation and/or circumstances, on-airport FBOs and/or SASOs could be adversely impacted by non-commercial aeronautical TTF activities. For instance, if a hangar tenant of an existing FBO and/or SASO develops a hangar facility on TTF property, the result could be a loss of revenue to on-airport operators. Additionally, depending on the proximity of the TTF operation, impacts relating to safety, security, noise, odors, fumes, dirt, dust, and glare should be considered.

NON-AERONAUTICAL ACTIVITIES



The impact of non-aeronautical TTF activities on non-aeronautical airport entities will most likely be nominal. However, depending on the situation and/or circumstances, on-airport FBOs and/or SASOs could be adversely impacted by non-aeronautical TTF activities. Depending on the proximity of the TTF operation, impacts relating to safety, security, noise, odors, fumes, dirt, dust, and glare need to be considered as well.

5.10 INTERESTED PARTIES

FAA

As discussed in Chapter 1: Introduction, the FAA's primary interest (as it relates to TTF operations) is ensuring that the airport sponsor complies with its federal obligations (and ultimately plans, develops, operates, and manages the airport to ensure the safety, utility, and efficiency of the airport for the benefit of the public). Therefore, consultation with the FAA on TTF operations is highly recommended to ensure that the FAA does not have any objections to the intentions of the airport sponsor and that the actions or inactions of the airport sponsor relating to TTF operations will not result in a finding of non-compliance. It is important to note that Section 136 limits the FAA's review of residential TTF activities at general aviation airports to compliance with the statute and related obligations. However, the FAA will review, upon request by the airport sponsor, any TTF agreement for non-residential TTF activities at any type of federally obligated airport.

STATE AVIATION ORGANIZATION

As discussed in Chapter 1: Introduction, an SAO's primary interest in TTF operations is ensuring that the airport sponsor complies with its state obligations. Therefore, consultation with the SAO on TTF operations is highly recommended to ensure that the SAO does not have any objection to the intentions of the airport sponsor and that the actions or inactions of the airport sponsor relating to TTF operations will not result in a finding of non-compliance.

AIRPORT SPONSOR

In addition to the wide variety of impacts TTF operations can have on airport activities, an airport sponsor's administrative, operational, and managerial personnel, programs, and plans can be impacted by TTF operations as well. By assessing the type and extent of impact a TTF operation can have on the airport sponsor, airport management and policymakers will be better positioned to take advantage of positive impacts and/or manage or, if possible, eliminate negative impacts.

AIRPORT OPERATORS, TENANTS, AND USERS

The potential impacts of a TTF operation on airport operators, tenants, and users—which are discussed throughout this chapter—need to be carefully considered, meticulously assessed, and thoughtfully evaluated as decisions relating to TTF operations can have short- and long-term consequences.

ADJACENT PROPERTY OWNERS

In addition to identifying potential impacts from a TTF operation on adjacent property owners (e.g., noise, vibrations, odors, fumes, dirt, dust, glare, etc.), airport management and policymakers need to find ways to mitigate the impacts.

An aviation easement is a valuable tool that can be utilized by airport sponsors to mitigate liability claims from adjacent property owners. However, it is important to note that an aviation easement will not mitigate complaints. Among other stipulations, an aviation easement permits aircraft to cause noise, vibrations, fumes, deposits of dust, fuel particles (incidental to the normal operation of aircraft), interference with sleep or communication, and any other effects associated with the normal operation of aircraft taking off, landing, or operating in the vicinity of the airport. Additionally, under an aviation easement, the property owner may agree not to make any modification to existing structures or construct, erect, or allow any structure or trees on the surface of the property without approval of the airport sponsor.

COMMUNITY

The primary impact of a TTF operation on a community is typically economic related, which includes the payment of property taxes relating to land, infrastructure, improvements, and personal property and a wide variety of other direct and indirect economic impacts.

Additionally, communities can benefit by the jobs that may be created on and off the airport and directly and indirectly by a TTF operation. To determine the economic impact of retaining existing and/or creating new jobs, it is necessary to gain a full understanding of the type of jobs, the number of jobs, and the average compensation.

As part of the research for this guidebook, one of the airport managers interviewed stated that 75% of the city's property taxes came from the airport's TTF operations. Property taxes were generated by large, custom homes with aircraft hangars (3,000 to 6,000 square feet). In this particular case, the airpark was considered one of the best neighborhoods in the city and many people moved to the airpark despite not owning or operating an aircraft.

In addition to property tax revenues and jobs, depending on the type of TTF activities, a community could realize additional direct and indirect economic benefits that should be included in the assessment process. This could include the purchase of goods and services by TTF entities and visitors to the TTF operation.

5.11 WRAP-UP

This chapter described a best practice approach for assessing TTF operations at a federally obligated airport including evaluating the advantages and disadvantages of TTF operations and ascertaining the positive and negative impacts associated with TTF operations.

Four tools were discussed to help assess TTF operations including:

- Figure 5-1: Assessment Process Guide
- Worksheet 5-1: TTF Operation Profile
- Worksheet 5-2: Airport Profile
- Worksheet 5-3: TTF Operation Assessment

The assessment process, which was outlined and discussed in this chapter, included an analysis of each of the following areas:

- Alternative Assessments
- Airport Sponsor Obligations
- Primary Planning Documents
- Airport Sponsor Regulatory Measures
- Primary Management and Compliance Documents
- Land, Infrastructure, and Improvements
- TTF Activities
- Interested Parties

5.12 WORKSHEETS

WORKSHEET 5-1: TTF OPERATION PROFILE		
Airport Name:	Type of TTF Operation: <input type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Future	Type of TTF Activity: <input type="checkbox"/> Residential <input type="checkbox"/> Commercial Aeronautical <input type="checkbox"/> Non-Commercial Aeronautical <input type="checkbox"/> Non-Aeronautical <input type="checkbox"/> Governmental/Military
TTF Entity Name:	Type of TTF Entity: <input type="checkbox"/> Private Property Owner <input type="checkbox"/> Public Property Owner <input type="checkbox"/> Lessee <input type="checkbox"/> Sublessee <input type="checkbox"/> Home Owners Association	
TTF PROPERTY		
Attributes of TTF property (existing and/or proposed)		
Location (in relationship to the airport)		
Size (acreage, square feet, and linear feet of airport frontage)		
Airside infrastructure access		
Proximity to airport infrastructure (apron, taxiways, runways)		
Landside infrastructure access		
Availability of utilities		
Ordinance restrictions		
Zoning restrictions		
Building restrictions		
Known environmental issues		
Safety, utility, and efficiency impacts		
Improvements on TTF property (existing and/or proposed)		
Type of improvements (hangar, office, shop, apron, vehicle parking, storage, residence, etc.)		
Square footage of each improvement		
Type of construction of each improvement		
Age and condition of each improvement		
Height of each improvement		
Hangar(s) door height and width		
Type of fencing and gates (or other access controls)		
Type of landscaping		

WORKSHEET 5-1: TTF OPERATION PROFILE (continued)	
Location of improvements	
Proximity to airport equipment (navigational aids, weather, vaults, lighting, etc.)	
Air traffic control tower line of sight	
Safety, utility, and efficiency impacts	
FAA Form 7460-1 (Notice of Proposed Construction or Alteration)	
Infrastructure on TTF property (existing and/or proposed)	
Apron (weight bearing capacity, type of pavement, condition, etc.)	
Taxilanes/taxiways (weight bearing capacity, type of pavement, condition, etc.)	
Roadways (weight bearing capacity, type of pavement, condition, etc.)	
Walkways and other (type of pavement, condition, etc.)	
Safety, utility, and efficiency impacts	
TTF ACTIVITIES	
Residential - type of residences and hangars (see descriptions in <i>Chapter 1</i>)	
Commercial aeronautical activities (existing and/or proposed products, services, facilities, etc.)	
Non-commercial aeronautical activities (existing and/or proposed)	
Non-aeronautical activities (existing and/or proposed)	
Governmental/military (existing and/or proposed)	
All activities (noise, vibrations, odors, fumes, dirt, dust, glare, etc.)	
TTF ACCESS	
Aircraft	
Number, type (make and model), size (length, height, wingspan), engine/fuel type, MTOW, etc.	
Use frequency (daily, weekly, monthly, etc.)	
Purpose for access	
Process for providing TTF access to transient aircraft (if applicable)	
Vehicles	
Number, type (make and model), size (length, height, and width), engine/fuel, gross weight, etc.	
Use frequency (daily, weekly, monthly, etc.)	
Purpose for access	

WORKSHEET 5-1: TTF OPERATION PROFILE (continued)	
Pedestrians	
Use frequency (daily, weekly, monthly, etc.)	
Purpose for access	
TTF Access Points	
Location of access point(s) - between TTF property and on-airport property	
Type of access point(s) - between TTF property and on-airport property	
Security mechanisms for pedestrian and vehicle access (card scanner, pin number, lock and key, badging, etc.)	
ECONOMIC CONSIDERATIONS	
Proposed jobs (number, type, average compensation, etc.)	
Proposed tax impacts (property, personal, other, etc.)	
Proposed economic impact (direct, indirect, multiplier effect, etc.)	
Social impact	

WORKSHEET 5-2: AIRPORT PROFILE	
Airport Name:	
AIRPORT LAND AND IMPROVEMENTS	
Available Land	
Location	
Size (acreage, square feet)	
Airside infrastructure access	
Landside infrastructure access	
Availability of utilities	
Available Improvements	
Type of improvements (hangar, office, shop, apron, vehicle parking, storage, etc.)	
Square footage of each improvement	
Type of construction of each improvement	
Age and condition of each improvement	
Hangar(s) door height and width	
Location of improvements	
Apron (weight bearing capacity, type of pavement, condition, etc.)	
AIRPORT INFRASTRUCTURE (RUNWAYS, TAXIWAYS, APRONS)	
Dimensions	
Weight bearing capacities	
Type of pavements	
Conditions	
Infrastructure adjacent to TTF property	
AIRPORT SECURITY	
Type of physical perimeter surrounding airport (fencing and gates)	
Security mechanisms for pedestrian and vehicle access (card scanner, pin number, lock and key, badging, etc.)	

WORKSHEET 5-2: AIRPORT PROFILE (continued)	
AIRPORT ACTIVITIES	
Type of commercial aeronautical products, services, and facilities provided on-airport	
Type of non-commercial aeronautical activities on-airport	
Type of non-aeronautical activities on-airport	
Type of governmental/military activities on-airport	
14 CFR Part 77 restrictions	
Aviation forecasts	
PRIMARY PLANNING DOCUMENTS	
Airport Strategic Business Plan	
Title and date	
Mission	
Vision	
Goals and objectives	
Operating budget impacts (positive, negative)	
Non-operating budget impacts (positive, negative)	
Performance measure impacts (positive, negative)	
Airport Master Plan and ALP	
Airport Master Plan (date)	
Airport Layout Plan (date)	
AIRPORT SPONSOR REGULATORY MEASURES	
Ordinances (reference and date)	
Zoning codes (reference and date)	
Building codes (reference and date)	
Land use plan (reference and date)	
PRIMARY MANAGEMENT AND COMPLIANCE DOCUMENTS	
Leasing/Rents and Fees Policy (reference and date)	
Minimum Standards (reference and date)	
Rules and Regulations (reference and date)	
Development Standards (reference and date)	

WORKSHEET 5-3: TTF OPERATION ASSESSMENT				
Airport Name:	Type of TTF Operations: <input type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Future	Type of TTF Activity: <input type="checkbox"/> Residential <input type="checkbox"/> Commercial Aeronautical <input type="checkbox"/> Non-Commercial Aeronautical <input type="checkbox"/> Non-Aeronautical <input type="checkbox"/> Governmental/Military		
TTF Entity Name:				
ALTERNATIVE ASSESSMENT				
<i>See Section 5.3</i>				
Can existing on-airport land, infrastructure, and/or improvements accommodate the TTF operations?				
Comments:	<input checked="" type="radio"/> NO ●	<input type="radio"/> MAYBE ○	<input type="radio"/> YES ●	N/A ○
Is the entity willing to lease existing on-airport land and/or improvements that can accommodate the TTF operations?				
Comments:	<input checked="" type="radio"/> NO ●	<input type="radio"/> MAYBE ○	<input type="radio"/> YES ●	N/A ○
Is the entity willing to donate or sell the TTF property to the airport sponsor (can the fence be moved to accommodate the TTF operations)?				
Comments:	<input checked="" type="radio"/> NO ●	<input type="radio"/> MAYBE ○	<input type="radio"/> YES ●	N/A ○
Does the airport sponsor have the funding available (or can the funding be secured) to purchase the TTF property?				
Comments:	<input checked="" type="radio"/> NO ●	<input type="radio"/> MAYBE ○	<input type="radio"/> YES ●	N/A ○
AIRPORT SPONSOR OBLIGATIONS				
FEDERAL OBLIGATIONS <i>See Section 2.2, Section 2.3, Section 2.4, Section 5.4, and Appendix A</i>				
Assurance 5 (Preserving Rights and Powers) - What impacts will the TTF operations have on the airport sponsor's ability to preserve its rights and powers?				
Comments:	<input checked="" type="radio"/> POSITIVE ●	<input type="radio"/> NEUTRAL ○	<input type="radio"/> NEGATIVE ●	N/A ○
Assurance 19 (Operation and Maintenance) - What impacts will the TTF operations have on the airport sponsor's ability to plan, develop, operate, and manage the airport while ensuring the safety, utility, and efficiency of the airport?				
Comments:	<input checked="" type="radio"/> POSITIVE ●	<input type="radio"/> NEUTRAL ○	<input type="radio"/> NEGATIVE ●	N/A ○
Assurance 20 (Hazard Removal and Mitigation) - What impacts will the TTF operations have on the airport sponsor's ability to protect the airport's protected and imaginary surfaces?				
Comments:	<input checked="" type="radio"/> POSITIVE ●	<input type="radio"/> NEUTRAL ○	<input type="radio"/> NEGATIVE ●	N/A ○
Assurance 21 (Compatible Land Use) - What impacts will the TTF operations have on the airport sponsor's ability to assure compatible land uses adjacent to the airport?				
Comments:	<input checked="" type="radio"/> POSITIVE ●	<input type="radio"/> NEUTRAL ○	<input type="radio"/> NEGATIVE ●	N/A ○
Assurance 22 (Economic Discrimination) - What impacts will the TTF operations have on the airport sponsor's ability to not unjustly discriminate (economically) against on-airport FBOs, SASOs, tenants, and/or users?				
Comments:	<input checked="" type="radio"/> POSITIVE ●	<input type="radio"/> NEUTRAL ○	<input type="radio"/> NEGATIVE ●	N/A ○
Assurance 23 (Exclusive Rights) - What impacts will the TTF operations have on the airport sponsor's ability to not grant an exclusive right to the TTF entity or on-airport FBOs, SASOs, tenants, and/or users?				
Comments:	<input checked="" type="radio"/> POSITIVE ●	<input type="radio"/> NEUTRAL ○	<input type="radio"/> NEGATIVE ●	N/A ○

WORKSHEET 5-3: TTF OPERATION ASSESSMENT (continued)				
Assurance 24 (Fee and Rental Structure) - What impacts will the TTF operations have on the airport sponsor's ability to meet the goal of being as financially self-sustaining as possible given the circumstances that exist at the airport?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
Assurance 29 (Airport Layout Plan) - What impacts will the TTF operations have on the airport sponsor's ability to keep current the airport's ALP, including the identification of TTF access points?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
What impacts will the TTF operations have on the airport sponsor's ability to maintain compliance with the other applicable federal obligations?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
STATE OBLIGATIONS <i>See Section 2.5 and Section 5.4</i>				
What impacts will the TTF operations have on the airport sponsor's ability to maintain compliance with state obligations?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
PRIMARY PLANNING DOCUMENTS				
AIRPORT STRATEGIC BUSINESS PLAN <i>See Section 4.2, Section 5.5, Section 7.3, and Worksheet 5-2</i>				
What influence will the TTF operations have on fulfillment of the airport's mission statement?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
What influence will the TTF operations have on the realization of the airport's vision statement?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
What influence will the TTF operations have on the realization of the airport's goals and objectives?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
What impact will the TTF operations have on the airport's operating budget?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
What impact will the TTF operations have on the airport's non-operating budget?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
What impact will the TTF operations have on the airport's financial budget?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
What impact will the TTF operations have on the airport's performance measures?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
AIRPORT MASTER PLAN/LAYOUT PLAN <i>See Section 4.2, Section 5.5, Section 7.3 and Worksheet 5-2</i>				
What impact will the TTF operations have on the implementation of the airport master plan?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
Are TTF operations consistent with the current airport layout plan?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>

WORKSHEET 5-3: TTF OPERATION ASSESSMENT (continued)					
AIRPORT SPONSOR REGULATORY MEASURES					
ORDINANCES	<i>See Section 4.3, Section 5.6, Section 7.2, and Worksheet 5-2</i>				
Will the TTF operations be compliant with the airport sponsor (or municipality) ordinances?					
Comments:	YES <input checked="" type="radio"/>	MAYBE <input type="radio"/>	NO <input checked="" type="radio"/>	N/A <input type="radio"/>	
Do the airport sponsor (or municipality) ordinances address TTF operations?					
Comments:	YES <input checked="" type="radio"/>	MAYBE <input type="radio"/>	NO <input checked="" type="radio"/>	N/A <input type="radio"/>	
ZONING CODES	<i>See Section 4.3, Section 5.6, Section 7.2, and Worksheet 5-2</i>				
Will the TTF operations be compliant with the airport sponsor (or municipality) zoning codes?					
Comments:	YES <input checked="" type="radio"/>	MAYBE <input type="radio"/>	NO <input checked="" type="radio"/>	N/A <input type="radio"/>	
Do the airport sponsor (or municipality) zoning codes address TTF operations?					
Comments:	YES <input checked="" type="radio"/>	MAYBE <input type="radio"/>	NO <input checked="" type="radio"/>	N/A <input type="radio"/>	
BUILDING CODES	<i>See Section 4.3, Section 5.6, Section 7.2, and Worksheet 5-2</i>				
Will the TTF operations be compliant with the airport sponsor (or municipality) building codes?					
Comments:	YES <input checked="" type="radio"/>	MAYBE <input type="radio"/>	NO <input checked="" type="radio"/>	N/A <input type="radio"/>	
Do the airport sponsor (or municipality) building codes address TTF operations?					
Comments:	YES <input checked="" type="radio"/>	MAYBE <input type="radio"/>	NO <input checked="" type="radio"/>	N/A <input type="radio"/>	
PRIMARY MANAGEMENT AND COMPLIANCE DOCUMENTS					
LEASING/RENTS AND FEES POLICY	<i>See Section 4.4, Section 5.7, Section 7.4, and Worksheet 5-2</i>				
Will the TTF operations be compliant with the airport's leasing/rents and fees policy?					
Comments:	YES <input checked="" type="radio"/>	MAYBE <input type="radio"/>	NO <input checked="" type="radio"/>	N/A <input type="radio"/>	
Do the airport's leasing/rents and fees policy address TTF operations?					
Comments:	YES <input checked="" type="radio"/>	MAYBE <input type="radio"/>	NO <input checked="" type="radio"/>	N/A <input type="radio"/>	
MINIMUM STANDARDS	<i>See Section 4.4, Section 5.7, Section 7.4, and Worksheet 5-2</i>				
Will the TTF operations be compliant with the airport's minimum standards?					
Comments:	YES <input checked="" type="radio"/>	MAYBE <input type="radio"/>	NO <input checked="" type="radio"/>	N/A <input type="radio"/>	
Do the airport's Minimum Standards address TTF operations?					
Comments:	YES <input checked="" type="radio"/>	MAYBE <input type="radio"/>	NO <input checked="" type="radio"/>	N/A <input type="radio"/>	
RULES AND REGULATIONS	<i>See Section 4.4, Section 5.7, Section 7.4, and Worksheet 5-2</i>				
Will the TTF operations be compliant with the airport's rules and regulations?					
Comments:	YES <input checked="" type="radio"/>	MAYBE <input type="radio"/>	NO <input checked="" type="radio"/>	N/A <input type="radio"/>	
Do the airport's rules and regulations address TTF operations?					
Comments:	YES <input checked="" type="radio"/>	MAYBE <input type="radio"/>	NO <input checked="" type="radio"/>	N/A <input type="radio"/>	

WORKSHEET 5-3: TTF OPERATION ASSESSMENT (continued)				
DEVELOPMENT STANDARDS <i>See Section 4.4, Section 5.7, Section 7.4, and Worksheet 5-2</i>				
Will the TTF operations be compliant with the airport's development standards?				
Comments:	YES ●	MAYBE ●	NO ●	N/A ○
Do the airport's development standards address TTF operations?				
Comments:	YES ●	MAYBE ●	NO ●	N/A ○
LAND, INFRASTRUCTURE, AND IMPROVEMENTS				
AIRSIDE LAND, INFRASTRUCTURE, AND IMPROVEMENTS <i>See Section 5.8, Section 7.5, and Worksheet 5-1</i>				
What type of impact will the TTF operations have on existing airside land, infrastructure, and improvements?				
Comments:	POSITIVE ●	NEUTRAL ●	NEGATIVE ●	N/A ○
What type of impact will the TTF operations have on future airside land, infrastructure, and improvements?				
Comments:	POSITIVE ●	NEUTRAL ●	NEGATIVE ●	N/A ○
What impact will the TTF operations have on navigational aids?				
Comments:	POSITIVE ●	NEUTRAL ●	NEGATIVE ●	N/A ○
What impact will the TTF operations have on imaginary surfaces?				
Comments:	POSITIVE ●	NEUTRAL ●	NEGATIVE ●	N/A ○
What impact will the TTF operations have on airport design surfaces?				
Comments:	POSITIVE ●	NEUTRAL ●	NEGATIVE ●	N/A ○
LANDSIDE LAND, INFRASTRUCTURE, AND IMPROVEMENTS <i>See Section 5.8, Section 7.5, and Worksheet 5-1</i>				
What type of impact will the TTF operations have on existing landside land, infrastructure, and improvements?				
Comments:	POSITIVE ●	NEUTRAL ●	NEGATIVE ●	N/A ○
What type of impact will the TTF operations have on future landside land, infrastructure, and improvements?				
Comments:	POSITIVE ●	NEUTRAL ●	NEGATIVE ●	N/A ○
AVIATION REAL ESTATE LAND, INFRASTRUCTURE, AND IMPROVEMENTS <i>See Section 5.8, Section 7.5, and Worksheet 5-1</i>				
What type of impact will the TTF operations have on existing aviation real estate land, infrastructure, and improvements?				
Comments:	POSITIVE ●	NEUTRAL ●	NEGATIVE ●	N/A ○
What type of impact will the TTF operations have on future aviation real estate land, infrastructure, and improvements?				
Comments:	POSITIVE ●	NEUTRAL ●	NEGATIVE ●	N/A ○
NON-AVIATION REAL ESTATE LAND, INFRASTRUCTURE, AND IMPROVEMENTS <i>See Section 5.8, Section 7.5, and Worksheet 5-1</i>				
What type of impact will the TTF operations have on existing non-aviation real estate land, infrastructure, and improvements?				
Comments:	POSITIVE ●	NEUTRAL ●	NEGATIVE ●	N/A ○
What type of impact will the TTF operations have on future non-aviation real estate land, infrastructure, and improvements?				
Comments:	POSITIVE ●	NEUTRAL ●	NEGATIVE ●	N/A ○

WORKSHEET 5-3: TTF OPERATION ASSESSMENT (continued)					
ACTIVITIES					
COMMERCIAL AERONAUTICAL ACTIVITIES		<i>See Section 5.9, Section 7.5, Worksheet 5-1, and Worksheet 5-2</i>			
What type of impact will the TTF operations have on existing commercial aeronautical activities?					
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A	<input type="radio"/>
What type of impact will the TTF operations have on future commercial aeronautical activities?					
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A	<input type="radio"/>
NON-COMMERCIAL AERONAUTICAL ACTIVITIES		<i>See Section 5.9, Section 7.5, Worksheet 5-1, and Worksheet 5-2</i>			
What type of impact will the TTF operations have on existing non-commercial aeronautical activities?					
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A	<input type="radio"/>
What type of impact will the TTF operations have on future non-commercial aeronautical activities?					
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A	<input type="radio"/>
NON-AERONAUTICAL ACTIVITIES		<i>See Section 5.9, Section 7.5, Worksheet 5-1, and Worksheet 5-2</i>			
What type of impact will the TTF operations have on existing non-aeronautical activities?					
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A	<input type="radio"/>
What type of impact will the TTF operations have on future non-aeronautical activities?					
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A	<input type="radio"/>
GOVERNMENTAL/MILITARY ACTIVITIES		<i>See Section 5.9, Section 7.5, Worksheet 5-1, and Worksheet 5-2</i>			
What type of impact will the TTF operations have on existing governmental/military activities?					
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A	<input type="radio"/>
What type of impact will the TTF operations have on future governmental/military activities?					
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A	<input type="radio"/>
INTERESTED PARTIES					
FAA		<i>Section 1.5 and Section 5.10</i>			
Has the FAA objected to TTF operations at the airport?					
Comments:	NO	MAYBE	YES	N/A	<input type="radio"/>
STATE AVIATION ORGANIZATION		<i>Section 1.5 and Section 5.10</i>			
Has the state aviation organization objected to TTF operations at the airport?					
Comments:	NO	MAYBE	YES	N/A	<input type="radio"/>

WORKSHEET 5-3: TTF OPERATION ASSESSMENT (continued)				
AIRPORT SPONSOR		<i>Section 1.5, Section 5.10, and Worksheet 5-1</i>		
What impact will the TTF operations have on the airport sponsor's administrative personnel?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A
What impact will the TTF operations have on the airport sponsor's operational personnel?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A
What impact will the TTF operations have on the airport certification manual?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A
What impact will the TTF operations have on the airport security plan?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A
What impact will the TTF operations have on the airport safety management system (SMS)?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A
What impact will the TTF operations have on the airport sustainability management plan?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A
What impact will the TTF operations have on the airport wildlife management plan?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A
What impact will the TTF operations have on the airport emergency preparedness/response plan?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A
What impact will the TTF operations have on the airport irregular operations plan?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A
What impact will the TTF operations have on the airport business and operational continuity plan?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A
What impact will the TTF operations have on the airport environmental management plan?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A
What impact will the TTF operations have on the airport noise abatement plan?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A
What impact will the TTF operations have on the airport stormwater management plan?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A
What impact will the TTF operations have on the airport pavement maintenance/repair program?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A
What impact will the TTF operations have on the airport snow removal or mowing program?				
Comments:	POSITIVE	NEUTRAL	NEGATIVE	N/A

WORKSHEET 5-3: TTF OPERATION ASSESSMENT (continued)				
What impact will the TTF operations have on the airport foreign object debris (FOD) control program?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
What impact will the TTF operations have on the airport ARFF services?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
AIRPORT OPERATORS, TENANTS, AND USERS <i>Section 5.10 and Worksheet 5-1</i>				
What impact will the TTF operations have on airport operators?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
What impact will the TTF operations have on airport tenants?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
What impact will the TTF operations have on airport users?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
ADJACENT PROPERTY OWNERS <i>Section 5.10 and Worksheet 5-1</i>				
What impact will the TTF operations have on adjacent property owners?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
Does the airport sponsor have (or can it negotiate) aviation easements over adjacent property?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
COMMUNITY <i>Section 5.10 and Worksheet 5-1</i>				
What impact will the TTF operations have on jobs in the community?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
What impact will the TTF operations have on tax revenues for the community?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
What impact will the TTF operations have economically (economic impact) on the community?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
What impact will the TTF operations have socially on the community?				
Comments:	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	N/A <input type="radio"/>
WRITTEN RECOMMENDATION				
Insert written recommendation				

CHAPTER SIX

STRUCTURING TTF OPERATIONS

- 6.1 Introduction
- 6.2 Policy
- 6.3 Application
- 6.4 Rents and Fees
- 6.5 Types of Agreements
- 6.6 TTF Agreement Terms and Conditions
- 6.7 Wrap-Up

If the airport sponsor...

- will be renewing an existing TTF operation/agreement
- is negotiating the terms and conditions of a TTF agreement
- has adopted policy to permit TTF operations

Then read...

- Chapter 6: Structuring TTF Operations* to:
- develop and implement TTF policy
 - develop and implement TTF rents and fees
 - develop and negotiate TTF agreements

6.1 INTRODUCTION

More and more, publicly owned and operated assets (like airports) are expected to be managed as a business with the goal of being financially self-sustaining. In fact, Assurance 24 (Fee and Rental Structure) requires that federally obligated airports be as financially self-sustaining as possible, given the circumstances that exist. As a result, airport sponsors may be under significant pressure to be (or become) financially self-sustaining regardless if that goal can be achieved given the circumstances that exist. For these reasons, some airport sponsors have pursued TTF operations as an alternative source of revenue.

However, without proper structure, TTF operations can be highly problematic. A thorough understanding of the complex nature of TTF operations (discussed in Chapters 1 through 4) and a thorough assessment of TTF operations (discussed in Chapter 5: Assessing TTF Operations) is essential to avoiding conflicts, complaints, and disputes.

Beyond the foundation established by the airport sponsor's federal and state obligations (discussed in Chapter 2: Airport Sponsor Obligations) and the legal principles established by FAA decisions and court rulings (discussed in Chapter 3: Legal Interests and Principles), this chapter discusses the best practices that airport managers and policymakers can use to **structure TTF operations**. This includes the development, implementation, and enforcement of a TTF operations policy, application, rents and fees, and agreement.

By providing a sound structure for TTF operations, airport management and policymakers can help ensure that a federally obligated airport will be planned, developed, operated, and managed to ensure the safety, utility, and efficiency of the airport for the benefit of the public. Additionally, providing a sound structure can help:

- **ensure that TTF operations will have a positive impact** on the airport and the community (e.g., increased aircraft operations; expansion of aviation products, services, and facilities; revenue generation and/or other financial contribution; economic and social benefits; etc.);
- **mitigate or eliminate any potential negative impacts** on the airport and the community related to TTF operations (e.g., non-compatible land uses, adverse effects on navigational aids (NAVAIDS) and/or approaches, penetration of critical line-of-sight areas at the airport, limiting or restricting airport expansion, etc.);
- **promote a level playing field** among providers of commercial aeronautical activities (on TTF property and on-airport); and
- **maintain compliance** with federal and state obligations.

6.2 POLICY

As discussed in Chapter 4: Airport Planning, Management, and Compliance Tools, airport sponsor ordinances can be used to govern the planning, development, operation, and management of the airport and set the stage for the development, implementation, and enforcement of planning, management, and compliance tools. Most importantly, an airport sponsor ordinance provides a mechanism for enforcing airport policies, standards, rules, and regulations (i.e., primary management and compliance documents).

Therefore, whether an airport sponsor permits, restricts, or prohibits TTF operations, an airport sponsor ordinance is the recommended tool for establishing a policy for TTF operations. Additionally, policies, standards, rules, and regulations related to TTF operations should be incorporated into the airport sponsor's primary management and compliance documents (as discussed in Chapter 7: Managing TTF Operations).

Best Practice

POLICY PERMITTING AND/OR RESTRICTING TTF OPERATIONS

An airport sponsor policy permitting and/or restricting TTF operations should identify the specific types of TTF activities permitted and/or restricted and incorporate the provisions discussed in this section.

KEY TERMS

Identify and define the key terms that are relevant to TTF operations including TTF property, TTF entity, TTF activities, TTF access, and TTF access points (discussed in Chapter 1: Introduction).

APPLICATION AND APPROVAL PROCESS

Provide an outline of the approval process for TTF operations and identify the information required for the application (discussed in this chapter) including identifying the location of the TTF property and TTF access points to help facilitate updating of the ALP and Exhibit "A" Property Map (i.e., maintaining a compliant ALP set).

RESTRICTIONS

Some examples of the types of restrictions airport sponsors could establish for engaging in TTF operations follow:

- TTF entity must demonstrate that there is no on-airport land available that could meet the needs of the TTF entity (and/or accommodate related TTF activities).
- TTF operations must be non-commercial in nature (i.e., no commercial aeronautical TTF activities are permitted).
- TTF entity shall enter into a TTF agreement with the airport sponsor and pay the airport sponsor the rents and fees associated with TTF operations (as specified in the airport's rents and fees schedule).
- Infrastructure costs (including TTF access controls) associated with the TTF operation (both on the TTF property and on-airport) shall be borne solely by the TTF entity.
- TTF entities shall enter into an aviation easement with the airport sponsor.
- TTF entities shall be prohibited from permitting unauthorized users TTF access or assigning (or granting) TTF access to other entities.
- Commercial TTF entities shall be restricted to providing commercial TTF activities only on TTF property.

GROUNDS FOR DENIAL

Some examples of possible grounds for denial of an application for TTF operations include:

- The TTF entity's interests and/or the TTF operation are inconsistent with the mission, vision, goals, or objectives of the airport; the best interest of the airport sponsor; any assurances; or any regulatory measure.
- The TTF entity and/or TTF operation, for any reason, do not comply with the policies, standards, rules, and regulations adopted by the airport sponsor for TTF operations.
- The TTF operation could adversely impact the general health, safety, and welfare of the public; the economic health or operational efficiency of airport operators, tenants, or users; or the safety, utility, and efficiency of the airport.
- The airport sponsor would be required to expend funds in connection with the TTF operation that the airport sponsor is unwilling and/or unable to expend or supply and/or that may result in a financial loss or create a hardship for the airport sponsor.

POLICY PROHIBITING OR RESTRICTING TTF OPERATIONS

As discussed in Chapter 5: Assessing TTF Operations, it can be difficult to broadly assess the opportunities and issues associated with TTF operations. Similarly, it may not be appropriate (depending on the outcome of the assessment) to prohibit all types of TTF activities. Therefore, if a policy prohibits (or restricts) TTF operations, it should reference the specific types of TTF activities that are prohibited (or restricted).

If an assessment of an existing or future TTF operation reveals that the negative impacts (on the airport; community; airport sponsor; and/or airport operators, tenants, or users) outweigh the positive impacts, airport management and policymakers should develop and implement a TTF policy restricting or prohibiting TTF operations in the future. Such a policy could simply state one or more of the following restrictions or prohibitions:

- Agreements for existing TTF operations will not be renewed or extended.
- Future TTF operations at the airport are prohibited.
- Future TTF operations at the airport are restricted to the following types of TTF activities (and list the allowed TTF activities).
- Aircraft shall not be taxied or towed onto the airport from land adjacent to the airport.
- Aircraft shall not be taxied or towed onto the airport except through TTF access points designated by the airport sponsor.
- Vehicles and pedestrians shall not enter upon airport land except from entrances designated by the airport sponsor.

6.3 APPLICATION

Airport sponsors that have established a policy that permits TTF operations and/or provides the opportunity to negotiate existing and/or new TTF agreements should utilize an application to obtain the information, data, and/or documentation necessary to conduct a thorough assessment. The application for TTF operations should be similar to the application for entities desirous of leasing on-airport land and/or improvements and/or engaging in on-airport commercial aeronautical activities. Additionally, the application could be utilized for assignment of a TTF agreement (**if permitted**) or a change in the majority ownership of the TTF entity (**if permitted**). At a minimum, the application should request the following information, data, and/or documentation:

Best Practice

ALL ENTITIES (REGARDLESS OF TYPE OF TTF ACTIVITY)

- **Entity information** – legal name, address, phone number
- **Type of entity** – public entity (e.g., federal, state, local, etc.) or private entity (e.g., individual, sole proprietor, partnership, corporation, limited liability corporation, etc.)
- **Type of applicant** – property owner, developer, lessee, sublessee
- **Governing documents (residential only)** – HOA covenants, conditions, and restrictions (CC&Rs)
- **Contact information** – name, title, address, phone number, e-mail address
- **Type of request** – new, assignment (if permitted), change in majority ownership (if permitted)
- **Type of TTF activity** – residential, commercial aeronautical, non-commercial aeronautical, non-aeronautical, governmental/military
- **Legal disclosure statements regarding the entity and the individuals** – crimes; violation of airport sponsor regulatory measures; judicial, regulatory, or administrative proceedings; uninsured and insured insurance claims; bankruptcy; agreement terminations; bond or surety cancellations; financial interest by an elected or appointed official
- **Description of existing and/or proposed TTF property land, infrastructure, and/or improvements** and any associated phasing
- **Description of existing and/or proposed on-airport land, infrastructure, and/or improvements**
- **Background, experience, qualification, capabilities and responsibilities** of each key member of design/construction team
- **Evidence of ability to secure construction bond** (only for improvements being made on-airport)
- **Location and description of TTF access points and access controls**
- **TTF agreement terms and conditions** – commencement date, duration, key terms and conditions
- **Copies of applicable federal, state, and local licenses, certificates, and permits**
- **Copies of insurance certificates**
- **Description of the number and type of aircraft** (make and model); length, wingspan, and height; maximum certificated takeoff weight (MTOW); and FAA registration number for all aircraft that will be based on or utilize the TTF property
- **References** – airport and financial

ENTITIES ENGAGING IN COMMERCIAL AERONAUTICAL TTF ACTIVITIES

- **Market assessment (TTF activity)** – size, composition, current state, significant trends, and future outlook
- **Operational plan**
- **Management plan**
- **Marketing plan**
- **Financial plan**
- **References** – operational and customer

6.4 RENTS AND FEES

One of the most significant financial issues associated with TTF operations is creating economic parity between TTF entities and on-airport operators, tenants, and/or users. On-airport entities pay airport sponsors rents and fees for occupying and/or using airport land, infrastructure, and/or improvements and engaging in aeronautical activities. Further, on-airport entities are required to comply with the airport sponsor's policies, standards, rules, and regulations (i.e., primary management and compliance documents).

Conversely, a TTF entity owns property located off-airport and typically does not pay **rent** (per se) to the airport sponsor. Additionally, TTF entities are not required to pay **fees** (relating to the TTF property or activities) to the airport sponsor. Therefore, unless a TTF agreement exists (which requires that the TTF entity pay **rents** and **fees** to the airport sponsor) for TTF activities, TTF access, and airport use, a TTF entity would enjoy a financial or economic advantage over on-airport operators, tenants, and users.

A TTF entity that owns TTF property also enjoys the advantages associated with fee simple ownership that extends into perpetuity. Hence, TTF entities are not constrained by lease terms and conditions (e.g., length of lease, reversion of improvements, etc.) like on-airport tenants. As a result, a TTF entity can amortize the costs associated with the TTF property (e.g., land, infrastructure, and/or improvements) over a longer period of time and may be able to generate a higher (or more favorable – compared to on-airport tenants) return on investment. It may also be easier for a TTF entity to obtain financing and/or secure financing on better (or more favorable as compared to on-airport tenants) terms and conditions which, in turn, would lower the TTF entity's costs.

On-airport tenants do not own land as it is being leased from the airport sponsor. While an on-airport tenant may own the improvements made to the land, in most cases, the ownership of the improvements transfers or reverts to the airport sponsor at the end of the agreement term. Upon transfer or reversion, the on-airport tenant begins paying rent to the airport sponsor for the improvements.

Additionally, there are other conditions and/or circumstances that could exacerbate the financial disparity between TTF entities and on-airport operators, tenants, and users. For example, off-airport (fee simple) property tax rates may differ from on-airport (leasehold) property tax rates, tax incentives or rebates may be different (i.e., may be available to one entity and not the other), and/or the availability of federal and/or state funding (for infrastructure development and maintenance) may differ as well.

A common theme expressed during the interviews conducted as part of the research for this guidebook is that TTF entities should pay comparable (at a minimum) or higher (preferred) rents and fees compared to on-airport operators, tenants, and users making similar use of the airport.

Best Practice

Furthermore, TTF entities should bear the costs associated with developing and maintaining the on-airport infrastructure required to facilitate TTF access. If the TTF entity does not directly bear these costs, these costs should be recovered through the establishment of rents and fees for TTF operations.

Finally, it is significant to note that airport sponsors may utilize a hybrid approach when establishing and adjusting rents and fees associated with TTF operations. **Most importantly, airport management and policymakers must ensure that regardless of the approach used to establish or adjust rents and fees for TTF operations, compliance with Assurance 22: Economic Nondiscrimination must be maintained.** A discussion of some of the more common approaches and the types of rents and fees typically associated with TTF operations follows.

ESTABLISHING RENTS AND FEES

Based on the research, interviews, and survey conducted for this guidebook, airport sponsors utilize a number of methodologies to establish rents and fees for TTF operations. At most of the airports with TTF operations, one or more of the following types of monthly and/or annual rents and fees are typically charged.

LAND, INFRASTRUCTURE, AND/OR IMPROVEMENTS (ON-AIRPORT) USED FOR TTF ACCESS

All TTF operations utilize on-airport land, infrastructure (e.g., taxiways, taxilanes, apron, etc.), and/or improvements (e.g., access controls, signage, lighting, etc.) for TTF access. However, if land, infrastructure, and/or improvements are not dedicated solely to TTF access, typically rent would not be charged. Instead, a common-use fee would be charged or costs would be recovered by charging a TTF access fee (discussed in this section).

When on-airport land, infrastructure, and/or improvements (which could have been used for other revenue generating purposes) are used exclusively for TTF access by a single TTF entity, airport sponsors should establish (and require that the TTF entity pay) rent (on a per square foot basis) for the exclusive use of such land, infrastructure, and/or improvements. This rate should be consistent with other similarly situated on-airport land, infrastructure, and/or improvements.

Best Practice

When on-airport land, infrastructure, and/or improvements (which could have been used for other revenue generating purposes) are used exclusively for TTF access by multiple TTF entities, airport sponsors should establish (and require that the TTF entities pay) a TTF access fee based on the revenue that could be generated by charging rent (on a per square foot basis) for the exclusive use of such land, infrastructure, and/or improvements. This rate should be consistent with other similarly situated on-airport land, infrastructure, and/or improvements.

Best Practice

LAND, INFRASTRUCTURE, AND/OR IMPROVEMENTS (LOCATED ON TTF PROPERTY)

To maintain economic parity between on-airport operators, tenants, and/or users and TTF entities, airport sponsors should treat TTF operations as if located on-airport. Therefore, airport sponsors should establish a fee based on a rate per square foot for land associated with TTF property. The fee should be equal to or greater than on-airport land rents and at a minimum, the fee should be charged for the land being used for TTF activities and TTF access and if desired, the fee could be charged for all TTF land. In many respects, this fee can be viewed as being representative of revenue an airport sponsor would lose as a result of the TTF activity being located off (instead of on) airport.

Best Practice

Similar to the infrastructure and/or improvements developed on-airport, airport sponsors should treat the infrastructure and/or improvements located on TTF property (e.g., hangar, office, shop, taxilane/taxiway, apron, etc.) as if located on-airport. Therefore, the airport sponsor should establish a rate per square foot fee for the infrastructure and/or improvements developed on TTF property to be paid to the airport sponsor when the ownership of such infrastructure and/or improvements would have transferred or reverted to the airport sponsor – as if located on-airport. However, this fee should not include infrastructure and/or improvements not normally developed on-airport (e.g., residential structures, vehicle roadways, pedestrian walkways, etc.).

Best Practice

TTF ACTIVITIES



Residential TTF activities typically encompass a residential improvement and the storage of aircraft, most commonly inside a hangar associated with the residence. If rents and fees have not been established for the land, infrastructure, and/or improvements on the TTF property, an airport sponsor should establish a monthly fee equivalent to the aircraft storage fee (e.g., tiedown or hangar) that would be charged if the aircraft was stored on-airport.

Best Practice



Commercial aeronautical TTF activities encompass TTF entities engaged in commercial aeronautical activities on TTF property. In addition to the fees for the land, infrastructure, and/or improvements on the TTF property, an airport sponsor should charge the same fees established for on-airport FBOs and SASOs (in order to maintain economic parity) which could include one or more of the following:

Best Practice

- fixed fee for each type of commercial aeronautical TTF activity;
- percentage of gross revenues associated with each type of commercial aeronautical TTF activity;
- fixed fee based on the type or weight of aircraft utilized in each type of commercial aeronautical TTF activity; and/or
- fuel flowage fee for the sale or dispensing of aviation fuels on the TTF property by a TTF entity or on-airport entity.



Non-commercial aeronautical TTF activities encompass the storage of aircraft and in some cases, the development of complimentary improvements (e.g., office, shop, storage, etc.). Similar to residential TTF activities, if an airport sponsor has not established rents and fees for the land, infrastructure, and/or improvements on the TTF property associated with non-commercial aeronautical activities, the airport sponsor should establish a monthly fee equivalent to the aircraft storage fee (e.g., tiedown or hangar) that would be charged if the aircraft was stored on airport.

Best Practice



Non-aeronautical TTF activities encompass activities that do not involve, make possible, and/or are not required for the operation of aircraft or do not contribute to or are not required for the safety of such aircraft operations. Typically, there are no additional rents and fees established for non-aeronautical TTF activities beyond the rents and fees for land, infrastructure, and/or improvements on the TTF property being used for non-aeronautical TTF activities.



Governmental/military TTF activities typically encompass federal and state government and military agencies and institutions occupying TTF property to engage in activities which primarily benefit the airport, the community, and/or national defense. Based on the research findings, at most of the airports with governmental/military TTF activities, no additional rents and fees are being charged for such activities beyond the rents and fees for land, infrastructure, and/or improvements on the TTF property being used specifically for governmental/military TTF activities – as the benefit to the community associated with such activities typically outweighs any revenue potential.

TTF ACCESS

TTF access fees are established to recover the airport sponsor's costs associated with facilitating TTF activities, TTF access, and use of the airport that are not recovered in the rents and fees for on-airport land, infrastructure and improvements; TTF property land, infrastructure, and/or improvements; or TTF activities. These fees, which should be based on the amortization of such costs over the term of the TTF agreement, could be charged on a monthly, quarterly, annual, or per-use basis. If established on a per-use basis, a reasonable estimate of usage needs to be ascertained or a mechanism – to monitor and record TTF access activity – needs to be developed and implemented.

It is important to note that some airport sponsors with existing TTF operations may find that the TTF entity has deeded access (or an access easement) to the airport and that the entity is not required to pay TTF access fees. However, as discussed in Chapter 2: Airport Sponsor Obligations, Section 136, all TTF entities engaged in residential TTF activities at a federally obligated airport are required to pay a fee for TTF access. Assurance 22: Economic Nondiscrimination requires TTF entities engaged in all other types of TTF activities at a federally obligated airport to pay a fee for TTF access.

Federal Obligation

Further, as discussed in Chapter 3: Legal Interests and Principles regarding the court ruling in *Kingman Airport Authority v. Hays*, a court ruled that the easement ended at the airport gate and that the TTF entity would be required to pay applicable TTF access fees. The court described the easement as a “bridge to a toll road.”



Some airport sponsors with residential TTF activities may find that TTF entities (i.e., homeowners) having TTF access rights to the airport do not own aircraft. In such a case, it is recommended that airport sponsors require that the homeowner still pay a fixed TTF access fee. This recommendation is rooted in the fact that the airport sponsor has expended time and money to develop the TTF structure and manage the TTF operation including maintaining and repairing the airside infrastructure and/or improvements to accommodate TTF access, regardless of use. This is very similar to the approach taken with an HOA that maintains common-use facilities (e.g., recreational centers, pools, tennis courts, etc.) and charges its members regardless of usage. In essence, TTF access fees can be supported for providing the privilege of access and use, not just actual use.

TTF DOCUMENTATION

In addition to the preceding rents and fees, airport sponsors should establish (and require that the TTF entity pay) a fee to update the ALP and Exhibit “A” Property Map. An extensive update to the ALP may be necessary to depict TTF use on the drawing set.

Best Practice

ADJUSTING RENTS AND FEES

The methodologies utilized to adjust rents and fees for TTF operations are typically similar to the approaches utilized for on-airport rents and fees including making market-based adjustments (rents) and cost-recovery adjustments (fees) and using fixed and/or indexed adjustments. Further, at the time an existing TTF agreement is renewed, the rents and fees associated with a TTF operation should reflect the market rent for the depreciated investment in the aeronautical improvements on the TTF property.

6.5 TYPES OF AGREEMENTS

Based on the research conducted for this guidebook, the type of TTF agreements used by airport sponsors (if any) and the associated terms and conditions vary considerably. TTF agreements can take many forms with each form having its own unique attributes. **Figure 6-1** identifies some of the most common types of TTF agreements.

FIGURE 6-1: Common Types of TTF Agreements

Deed Restriction

Easement

Lease

License/Permit

Contract

A description of each type of TTF agreement follows:

DEED RESTRICTION

DEFINITION AND PURPOSE

A deed is a written instrument conveying an interest in real property; a deed restriction is a limitation on the use or enjoyment of real property that is included in a deed. The burden of the limitation (i.e., the airport sponsor’s obligation to provide TTF access) may be for a specified term or perpetual. The burden “runs with the land” which means that it applies to any future owner of the land. The benefit of the limitation (i.e., the TTF entity’s right to use the airport land) may also “run with the land.” Some deed restrictions limit the benefit to a specific person or persons.

EXECUTION

A deed restriction generally arises when property is being conveyed (e.g., an entity sells land for construction of an airport). To enter into a TTF agreement using this instrument, the parties would agree to a deed restriction. Such a restriction would require that the airport sponsor allow the TTF entity to use the airport according to the terms and conditions of the deed, including the right to TTF access. Conversely, if an airport sponsor sells land to a TTF entity, any right of TTF access would be effectuated by one of the other instruments discussed in this section. A deed restriction should be recorded with the County Clerk and Recorder in the real property records.

MODIFICATIONS AND TERMINATION

A deed restriction can be voluntarily modified or terminated by the mutual agreement of all parties. If the burdened property owner (i.e., the airport sponsor) wishes to terminate the restriction unilaterally, it may seek a release from a court. In order to successfully terminate a deed restriction, it (i.e., the airport sponsor) must provide a legal basis for termination (e.g., the deed restriction is invalid or the restriction has terminated on its own).

CONSIDERATIONS

A deed restriction is a highly restrictive way to structure a TTF agreement. TTF entities may favor this restrictiveness for the certainty that it can provide (i.e., it ensures TTF access rights regardless of the policies of the airport sponsor). However, TTF entities and airport sponsors may find that this instrument fails to allow for the level of detail desired regarding terms of use and provisions for changed conditions. Circumstances giving rise to deed restrictions (e.g., transfer of TTF property) are rare. It is also important to note that in Order 5190.6B, the FAA indicates that TTF access should not be deeded, especially into perpetuity, as this would not constitute a reasonable planning horizon for the airport sponsor.

EASEMENT

DEFINITION AND PURPOSE

An easement is an interest in land that gives its holder the right to use land owned by another person. An easement appurtenant involves a benefitted parcel (e.g., a TTF property) and a burdened parcel (e.g., an airport). In contrast, an easement in gross involves a benefitted person (e.g., a TTF entity) and burdened parcel (e.g., an airport).

The distinction is important because an easement appurtenant “runs with the land” (i.e., any future owner of a TTF property would have the benefit of the easement). An easement may be for a specified term or perpetual. Additionally, an easement may grant its holder exclusive or non-exclusive rights to use the land. An easement should be recorded with the County Clerk and Recorder in the real property records.

EXECUTION

The airport sponsor would grant an easement to the TTF entity. Typically, the entity would agree to compensate the airport sponsor for the easement. An easement may also be reserved by the entity through a deed, if it is conveying property to the airport sponsor (see Deed Restriction in this section).

MODIFICATIONS AND TERMINATION

An easement can be voluntarily modified or terminated by the mutual agreement of all parties. An easement may also be terminated according to the terms stipulated in the easement agreement.

CONSIDERATIONS

An easement is, in some ways, an appropriate fit for TTF agreements, as it grants a TTF entity the right to access airport land. It also gives the entity an interest in real property. However, an airport sponsor may not favor an easement because the instrument's purpose does not easily fit with the airport sponsor's typical desire to impose certain obligations on the entity and the TTF property (i.e., require compliance with primary management and compliance documents) and an easement into perpetuity does not provide the airport sponsor with a reasonable planning horizon.

LEASE

DEFINITION AND PURPOSE

A lease is an interest in land that gives its holder a right to use and occupy real property. It is effectuated by a lease agreement wherein an owner (or tenant) conveys to a tenant (or subtenant) certain rights to use and occupy land and/or improvements in exchange for payment of rents and fees. The term of a lease is usually for a fixed period and may include renewal opportunities.

EXECUTION

A lease would be negotiated and executed by voluntary agreement of the parties. A lease should be recorded with the County Clerk and Recorder in the real property records.

MODIFICATIONS AND TERMINATION

A lease can be voluntarily modified or terminated by the mutual agreement of all parties. A lease may also be terminated according to the terms stipulated in the agreement.

CONSIDERATIONS

A lease is an awkward fit for TTF operations because the airport sponsor is not typically leasing airport land and/or improvements to the TTF entity (i.e., the airport sponsor is typically providing TTF access and the right to use the airport in common with others). While a TTF agreement conveys a right of access, it typically does not give the entity the right to exclusively occupy airport land and/or improvements, a hallmark of a lease agreement. However, a lease could be a good instrument to consider if, for example, an on-airport taxilane is being used exclusively by a TTF entity, or if a TTF agreement is part of a broader lease of airport land and/or improvements to a TTF entity. As with an easement, a lease may not be the best instrument to impose conditions on the entity's use of the TTF property.

LICENSE/PERMIT

DEFINITION AND PURPOSE

A license/permit is a grant of permission to a person to take certain actions that would otherwise be unlawful. A license/permit may be for a fixed period or it may be revocable "at will." It may also include provisions granting certain rights, responsibilities, and/or obligations to the parties. It is distinguished from a lease or easement appurtenant because it is granted to an individual person or persons, rather than a property, and therefore does not "run with the land" (i.e., it would not apply to the future owners of TTF property).

EXECUTION

A license/permit may be a standard form used by the airport sponsor or negotiated between the parties. Licenses/permits typically include a requirement for the TTF entity to compensate the airport sponsor for TTF access.

MODIFICATIONS AND TERMINATION

A revocable license/permit may be modified or terminated at the will of the airport sponsor. Other types of licenses/permits may include provisions that govern modification and termination.

CONSIDERATIONS

A revocable license/permit gives an airport sponsor a great deal of flexibility. However, it is unlikely to provide a TTF entity with the assurances (relating to term and use) it desires. Therefore, a license/permit with provisions regarding the rights, responsibilities, and obligations of the parties is likely to be more appropriate. Such a license/permit would enable the parties to agree on a variety of terms and conditions to govern the TTF operation. However, it may not provide the entity with the protections that are as certain as those effectuated by real estate instruments.

CONTRACT

DEFINITION AND PURPOSE

A contract is an agreement between two or more parties creating rights, responsibilities, and obligations that are enforceable at law. A contract may relate to any issue including real property.

EXECUTION

A contract would be negotiated and executed voluntarily by the parties. Under the terms and conditions of a TTF contract, an airport sponsor would grant TTF access in exchange for rents, fees, and/or other promises from the TTF entity.

MODIFICATIONS AND TERMINATION

A contract may be modified or terminated by the mutual agreement of all parties. A contract may also be terminated in accordance with the terms and conditions stipulated in the contract.

CONSIDERATIONS

A contract provides maximum flexibility to the airport sponsor and the TTF entity. In concept, a detailed license/permit is like a contract (see License/Permit in this section) as similar considerations typically apply.

OTHER TTF AGREEMENT CONSIDERATIONS

Airport sponsor should include in TTF agreements a first right of refusal to allow the airport sponsor to purchase the TTF property should the TTF entity place the TTF property for sale. The inclusion of this right would facilitate a future **move the fence** strategy by the airport sponsor to eliminate a TTF property. However, AIP funds may be required to implement this strategy.

Best Practice



Airport sponsors that enter into a TTF agreement with an HOA (versus individual residential TTF entities) should review the HOA's CC&Rs which control the development and use of residential TTF property to ensure that the CC&Rs are consistent with the agreement and the airport's primary management and compliance documents. The CC&Rs can be a powerful tool that HOAs can use to enforce the terms and conditions of the agreement.

Best Practice

6.6 TTF AGREEMENT TERMS AND CONDITIONS

Section 136 stipulates that a TTF agreement for residential TTF activities shall be in writing and that such an agreement shall “prescribe the rights, responsibilities, charges, duration, and other terms” the airport sponsor deems necessary. As indicated throughout this guidebook, this would be considered a best practice for all types of TTF activities.

A discussion of the most common terms and conditions associated with a contractual agreement that grants TTF access rights for conducting TTF operations and/or engaging in TTF activities follows. These terms and conditions are designed for a contract, but could be incorporated into other types of TTF agreements.

INTRODUCTORY CLAUSE

The purpose of the introductory clause is to provide a brief introduction to the TTF agreement. Ideally, this section should identify the parties to the agreement, what the agreement is generally about, and when the agreement will become effective.

PARTIES TO THE TTF AGREEMENT

TTF agreements typically involve two parties: the airport sponsor (or an entity authorized to enter into agreements on behalf of the airport sponsor) and the TTF entity. In this provision, use full legal names and a description of the type of entity and associated state of organization (e.g., “a corporation organized and existing under the laws of the State of Colorado”). Additionally, a shortened defined term for each party to be used throughout the balance of the agreement (e.g., Airport Sponsor, ABC Company) should be included. Typically, the airport sponsor should be identified by the name of the entity (e.g., City of XYZ) rather than the name of the airport (e.g., XYZ Airport).

EFFECTIVE DATE OF THE TTF AGREEMENT

The effective date is typically the date of the final signature or some other date agreed upon by the parties, which can be before or after the TTF agreement is signed. This date is significant because it is the date when the rights, responsibilities, and obligations of the parties become enforceable. The parties may decide to postpone the effective date until the occurrence of a specific event, such as the construction of improvements (e.g., TTF access points).

RECITALS

The purpose of the recitals section is to set the stage for the TTF agreement. This section should identify basic facts that provide context for the agreement and aid in subsequent interpretation. The recitals are not binding and should not include substantive terms and conditions. However, the recitals can (and should) be incorporated into the agreement by reference.

SPONSORSHIP OF PROPERTIES

The recitals should identify the properties owned by the airport sponsor and the TTF entity by physical addresses and any common names utilized for the parties (e.g., XYZ Airport).

OTHER AGREEMENTS CONCERNING TTF OPERATIONS

If any other legal instruments (e.g., deeds, leases, easements, licenses, permits, or other agreements) related to the TTF operations are addressed in the TTF agreement, such instruments should be identified by the exact title of the instrument, the parties, and the effective date within the recitals. For example, TTF access may be addressed in a deed or easement, which should be referenced in a subsequent agreement or contract specifically defining the conditions of access.

AUTHORITY FOR PERMITTING TTF OPERATIONS

Generally, the authority of an airport sponsor to enter into a TTF agreement will derive from the entity's powers as the property owner and as the airport sponsor, and may also be exercised pursuant to an express state statute, local ordinance, or airport management and compliance document. The recitals should describe the applicable authority.

APPLICATION OF AIRPORT SPONSOR ASSURANCES

The recitals should include a provision that indicates the applicability of the Airport Sponsor Assurances. This puts the parties and the reader on notice that federal obligations are applicable and that the obligations may affect the TTF agreement pursuant to a subordination clause or similar provision. Because of the importance of this provision, airport sponsors can face severe penalties if the agreement is construed by FAA to create a conflict with the assurances. Within this context, the Airport Sponsor Assurances and subordination are typically addressed in more detail in the main body of the agreement.

PURPOSE OF THE TTF AGREEMENT

The recitals should describe the motivations and purposes of each party in entering into the TTF agreement (e.g., "to authorize access to the airport from TTF property at a defined TTF access point in exchange for payment of fees and compliance with other terms of agreement by TTF entity"). The permitted TTF activities of the entity should also be identified (e.g., residential, commercial aeronautical, non-commercial aeronautical, non-aeronautical, and governmental/military).

DEFINITIONS

Defined terms should be included as deemed necessary and appropriate. Defined terms (e.g., Airport Sponsor, TTF Entity, TTF Property, etc.) may be established throughout the text by including a definition in a parenthetical directly following the first time the term occurs in the TTF agreement. For more detailed agreements, it may be appropriate to include a dedicated definitions section.

NO INTEREST IN REAL PROPERTY (IF APPLICABLE)

If the TTF agreement is in the form of a contract, license, or permit, then a declaration that no part of the agreement creates any interest in real property, and specifically does not confer any interest in the airport to the TTF entity needs to be included in the agreement. This can be important because the holder of an interest in real property has certain rights that a party to a contract, license, or permit or license may not. It is particularly important for airport sponsors of federally obligated airports because Assurance 5 (Preserving Rights and Powers) prohibits an airport sponsor from encumbering an airport without FAA consent.

SUBORDINATION

While it does not matter where this provision is located in the TTF agreement, a provision declaring that the agreement is subordinate to the Airport Sponsor Assurances and similar and related federal obligations must be included in the agreement. This is critical for ensuring compliance with Assurance 5 (Preserving Rights and Powers). Even if an airport sponsor is not subject to the assurances, it is advisable to include a clause that subordinates the agreement to any existing or future agreements between the airport sponsor and the federal and state government. The TTF entity should agree to comply with any actions that the federal or state government deems necessary for the airport sponsor to achieve compliance with the assurances, other federal and state obligations, and applicable regulatory measures. The airport sponsor should also consider including the unilateral right to amend or terminate the agreement at any time, if necessary for the airport sponsor to remain in compliance with the assurances, other federal and state obligations, and applicable regulatory measures.

TERM OF AGREEMENT

START DATE, END DATE, AND DURATION

The start date of the TTF agreement will often be the effective date, but it may be later as well. The duration of the agreement should be for a specified term.

The FAA discourages perpetual TTF agreements and the airport sponsor may not favor a perpetual agreement that limits the future growth and development potential of the airport. The parties may wish to define the end date as well. The term may also be contingent upon the continuing existence of a certain condition such as a particular use of the TTF property by the TTF entity.



It is important to note that the FAA (as discussed in Order 5190.6B) discourages a term that is based on the full depreciation of any investment made on the TTF property, as would be the case had the investment been made on the airport. Furthermore, as discussed in the CGL, the FAA's review of a residential TTF agreement is only valid for a period not to exceed 20 years. Therefore, airport sponsors should not enter into a TTF agreement, regardless of the type of TTF activity, having a base term greater than 20 years.

Best Practice

RENEWAL OPTIONS AND NOTICE REQUIREMENTS

Provisions regarding options to renew the agreement may be desirable. Such provisions should include the terms under which renewal is possible (e.g., TTF entity is in good standing and not in breach of any part of the TTF agreement) and whether the renewal will be at the option of either party and/or if the renewal will be subject to negotiation. If one of the parties (usually the TTF entity) will have an option to renew, this provision should also include any notice requirements that will be required to exercise the option and whether and how rents and fees will be adjusted.

TTF ACCESS RIGHTS

The purpose of this section is to provide detailed information about the mechanics and scope of TTF access. The ambiguity about what types of situations and/or circumstances constitute a violation of the TTF agreement can be avoided by providing good (detailed and thorough) descriptions in this section.

SUBJECT PROPERTIES

The addresses and common names of the subject properties have already been identified in the recitals and this provision can refer back to the descriptions provided in that section. Additionally, this provision should include a reference to full legal descriptions which are typically included as attachments or exhibits to the agreement.

To remain consistent with the requirement stipulated in Section 136 for residential TTF activities and consistent with best practices for all other types of TTF activities, this provision should stipulate that the TTF entity must prohibit access to the airport by the owners/users of other properties through the subject property.

TTF ACCESS POINTS

The description of the TTF access points should include the common names that are used for the gates, taxilanes, or taxiways (e.g., Taxiway A) that facilitate TTF access to the airport. A detailed graphic depiction of the TTF access points is recommended and such a depiction can (and should) be included as an attachment or exhibit to the TTF agreement.

METHOD OF TTF ACCESS AND ACCESS CONTROLS

The description of the method of TTF access should include detailed information about the way the TTF entity will access the airport (e.g., gate cards, access codes, etc.).

AIRCRAFT TTF ACCESS RIGHTS

The TTF agreement should identify the specific aircraft permitted to utilize the TTF access points, consistent with the TTF activities permitted in the agreement. For residential and non-commercial aeronautical TTF activities, this may be limited to aircraft owned by the TTF entity and such aircraft may be identified explicitly by make, model, and registration number. For commercial aeronautical, non-aeronautical, or governmental/military TTF activities, the aircraft permitted to utilize TTF access points may be identified more broadly (e.g., aircraft manufactured by a TTF entity, aircraft operated by government/military agency, etc.).

If the airport's infrastructure has specific weight restrictions relating to the weight bearing capacities of the airport's runways and taxiways, a provision prohibiting such use by aircraft exceeding the weight restrictions should be included in the agreement as well.

VEHICLE AND PEDESTRIAN TTF ACCESS RIGHTS

The description should identify the types of vehicles (and pedestrians – if allowed) that are permitted to utilize TTF access points, the specific gates and roadways for TTF access, the acceptable purposes (and hours) for access, and whether prior permission is needed from the airport sponsor. For example, if the TTF entity is responsible for removing snow from the on-airport taxilanes connecting the TTF property to the airport's airside infrastructure, the TTF agreement may expressly permit access to the airport property for the purposes of snow removal with prior approval from the airport sponsor. It is significant to note that Order 5190.6B recommends that airport sponsors explicitly restrict TTF access to aircraft only.

PERIODS OF ACCESS AND EXCLUSIONS FOR SPECIAL CIRCUMSTANCES

The description of the periods when TTF access is allowed should include specific times (e.g., time of day, day of the week, etc.) or specific events (e.g., special events – like air shows, emergency situations and/or circumstances, etc.). If an airport sponsor has mandatory curfews (based on an approved 14 CFR Part 161 study) or voluntary curfews, a provision prohibiting use of the airport during these curfews should be included in the TTF agreement as well.

ATTACHMENTS

To reduce ambiguity, it may be helpful to include various attachments including a full legal description of the properties, as well as the ALP, and other relevant plans, maps, or photographs. Often times, a detailed graphic depiction will be more helpful than a narrative description.

TTF ACTIVITIES

In this section, an airport sponsor can place restrictions on the activities permitted on a TTF property in exchange for granting TTF access rights to a TTF entity.

PERMITTED TTF ACTIVITIES

The TTF agreement should clearly identify the permitted TTF activities on the TTF property (e.g., residential, commercial aeronautical, non-commercial aeronautical, non-aeronautical, and/or governmental/military). Permitted activities should be described in detail (e.g., "residential" includes single or multi-family dwellings, duplexes, apartments, primary and secondary homes, etc.).

PROHIBITED AND/OR RESTRICTED TTF ACTIVITIES

The TTF agreement should clearly identify in detail the prohibited and/or restricted TTF activities on the TTF property (e.g., retail fuel sales, commercial aeronautical, or residential). Special consideration should be given to clearly delineating those TTF activities that could potentially fall into the permitted “**and**” the prohibited categories (e.g., the use of aircraft for business purposes could be considered a commercial or a non-commercial activity).



Section 136 requires that TTF agreements permitting residential TTF access stipulate that the TTF property can only be utilized for residential TTF activities and that commercial aeronautical TTF activities (including the sale of fuel) are prohibited.

RIGHTS OR LIMITATIONS RELATING TO FUELING

The airport sponsor may allow a TTF entity to fuel aircraft on the entity’s private property or may determine that it is in the best interest of the airport sponsor to require, as a condition of granting TTF access, that the entity refrain from engaging in fueling activities on the TTF property. It is important to note that a TTF entity is not protected under the Airport Sponsor Assurances and therefore has no right, enforceable by the FAA, to self-fuel (or engage in any form of self-service for that matter).

APPLICATION OF ORDINANCES, POLICIES, STANDARDS, RULES, AND REGULATIONS ON TTF PROPERTY

Any applicable ordinances, policies, standards, rules, and regulations (e.g., the airport’s primary management and compliance documents, the airport sponsor’s regulatory measures, and/or the requirements of other government agencies having jurisdiction) should be referenced using accurate and complete citations including a description of the extent to which such ordinances, policies, standards, rules, and regulations are applicable to TTF operations.

These authorities, which could be applicable to TTF operations, are in addition to those that apply when a TTF entity is operating on the airport. These documents can (and should) be incorporated into the TTF agreement by reference and would be enforceable under the agreement. Additionally, a provision can (and should) be included in this section that explains which version of the documents applies (e.g., whether the version which exists at time of execution of the agreement applies or the current version which exists at the time of the interpretation applies).

TTF RENTS AND FEES

The TTF agreement should require that the TTF entity pay appropriate rents and fees for the right to access and use the airport. This ensures that the airport sponsor recovers the costs associated with providing TTF access and maintaining compliance with the federal and state obligations and helps minimize the potential for conflicts, complaints, and disputes with on-airport operators, tenants, and users relating to economic nondiscrimination. In addition to identifying the specific rents and fees and associated due dates, other terms such as adjustments, late fees, taxes, and assessments should be addressed as well. This provision is required for residential TTF activities to maintain compliance with Section 136. However, this provision should be included in all TTF agreements.

AMOUNT AND METHOD OF CALCULATION

The type of rents and fees should be described (e.g., fixed, variable, other, etc.) and, if applicable, the method for calculating the rents and fees should be described as well (e.g., based on square footage of land and improvements associated with TTF property or on a per use basis of TTF access points, as discussed in Section 6.4: Rents and Fees). If rents and fees are variable, a minimum annual guarantee might be included in the TTF agreement. Some agreements may outline a fixed and a variable rents and fees structure.

The parties may agree to other fees (e.g., fuel flowage, percentage of revenue from commercial activities, etc.). In addition to identifying such other fees, the method for calculating the amount and the frequency for making adjustments should be described in this provision.

WHEN AND WHERE RENTS AND FEES ARE DUE

For simplicity and predictability, rents and fees should generally be due and payable (without invoice) at regular intervals (e.g., monthly, quarterly, annually, etc.). If specific methods of payment are desired (e.g., direct bank transfer), such terms should be included. Additionally, the location of payment (e.g., the address of the airport administrative offices or some other designated address) should be stipulated.

ADJUSTMENTS TO RENTS AND FEES

It is advisable to include terms that provide for escalation of the rents and fees over time. For example, rents and fees can be adjusted based on the changes to rental rates for on-airport land and/or improvements or fees can be adjusted based on the changes to an index [e.g., Consumer Price Index (CPI)]. The parties may agree to negotiate rents and fees on a periodic basis and/or at the time an agreement is renewed (if permitted).

LATE CHARGES

To encourage the timely payment of rents and fees, the TTF agreement may impose late charges. If so, this provision should include a description of the circumstances under which a payment would be considered late and whether notice is required before a late charge can be applied.

REMITTANCE AGREEMENTS

The parties may agree that the TTF entity should collect rents and fees from others (e.g., overnight parking fees for transient users) and remit the rents and fees to the airport sponsor. In this case, the TTF agreement should describe the reporting documentation required, the frequency of remittance, the amount the entity may retain (if any), and the repercussions for failing to remit the amount due (to the airport sponsor) on a timely basis.

APPLICATION OF TAXES AND OTHER ASSESSMENTS

Typically, TTF entities are private parties and the tax exemption(s) that apply to airport property do not apply to TTF property. As such, it may be helpful to clarify that the TTF entity is liable for the payment of taxes and/or assessments relating to the TTF property.

INFRASTRUCTURE AND/OR IMPROVEMENTS

INFRASTRUCTURE AND/OR IMPROVEMENTS TO BE COMPLETED

TTF agreements may involve the construction of new infrastructure and/or improvements on and/or off the airport. This provision should describe the type and location of the infrastructure and/or improvements to be constructed (e.g., taxilanes, security fences, gates, etc.). Attachments or exhibits may be helpful to graphically depict the type and location of existing and proposed (or new) infrastructure and/or improvements.

RESPONSIBILITY FOR CONSTRUCTION OF INFRASTRUCTURE AND/OR IMPROVEMENTS

New infrastructure and/or improvements may be constructed by the TTF entity (on and/or off the airport) or the airport sponsor (on-airport). This provision should identify the party who is responsible for constructing each component of the new infrastructure and/or improvements. Particular attention needs to be paid to infrastructure and/or improvements that are going to be constructed on the airport property line (e.g., security fencing, access gates, signage, lighting, etc.). Typically, the airport sponsor oversees any construction taking place on the airport, even if the cost of construction is being borne by the TTF entity (discussed further in this section). This provision helps ensure compliance with Section 136 for residential TTF agreements. However, this provision should be included in all TTF agreements.

RESPONSIBILITY FOR COSTS OF CONSTRUCTION OF INFRASTRUCTURE AND/OR IMPROVEMENTS

The party who pays the costs of construction may be different than the party who is responsible for construction. This provision should identify the responsibilities of each party.

SPONSORSHIP OF INFRASTRUCTURE AND/OR IMPROVEMENTS

The sponsorship of infrastructure and/or improvements should be identified, especially if the infrastructure and/or improvements are constructed and paid for by different parties. However, the TTF entity should not (in any case) be identified as the sponsor of on-airport infrastructure and/or improvements.

TAX TREATMENT OF INFRASTRUCTURE AND/OR IMPROVEMENTS

It may be desirable to include a provision regarding the tax treatment of infrastructure and/or improvements (e.g., the TTF entity will pay the taxes assessed on the infrastructure and/or improvements located on the TTF property).

DESIGN AND CONSTRUCTION PROCESS

A description of the design and construction process should be included in the TTF agreement. The elements of the process may include, for example, the airport sponsor's right to approve construction plans, a budget and payment (or draw-down) schedule, delivery of "as-built" plans to the airport sponsor, and a prohibition on interference with airport activities during construction. If the airport sponsor has development standards (as discussed in Chapter 4: Airport Planning, Management, and Compliance Tools and this chapter), the agreement should require compliance with this document.

REQUIRED DISCLOSURES AND CERTIFICATIONS

The parties may desire to require certain financial disclosures and certifications to maintain transparency. For example, the parties may agree to require that the TTF entity describe the total value and cost of all investments made in connection with the TTF operation.

MAINTENANCE AND REPAIR OF PREMISES

This is another key area in which airport sponsors may exert control over TTF property in return for granting TTF access. These provisions are necessary to ensure the safety, utility, and efficiency of the airport.

TTF ENTITY'S RESPONSIBILITIES FOR MAINTENANCE AND REPAIR OF TTF PROPERTY

The description of the TTF entity's responsibility for maintenance and repair of its own property (including infrastructure and/or improvements) can (and should) include measurable standards. Requirements may include: snow removal is required when snow reaches a certain level; vegetation must be kept below a certain height; explosive materials may not be stored on the property. If new infrastructure and/or improvements will be constructed under the TTF agreement, it is advisable to specify that the TTF entity will be responsible for the maintenance and repair of such infrastructure and/or improvements on the TTF property.

AIRPORT SPONSOR'S RIGHT TO ENFORCE MAINTENANCE AND REPAIR OBLIGATIONS

The airport sponsor may want to include a provision giving it the right to order the TTF entity to carry out certain types of maintenance and repair and/or prevent the construction of infrastructure and/or improvements and other structures and/or the growth of natural objects that would constitute a hazard to air navigation. Such a provision may include notice requirements, cure periods, and the airport sponsor may have the right to enter the TTF property and perform any required actions, at the TTF entity's risk, cost, and expense, if the entity fails to comply.

AIRPORT SPONSOR'S DUTY TO KEEP THE AIRPORT OPEN

The airport sponsor may agree that it has a duty to act in good faith to keep the airport open, subject to certain limitations. Additionally, it may be desirable to include provisions that describe the airport sponsor's duty to maintain the infrastructure and/or improvements that are essential to TTF operations (e.g., the airport sponsor is responsible for maintaining the taxilanes from the fence line to the airport airside infrastructure). In some cases, the parties may agree that the TTF entity will pay a fee to the airport sponsor to help recover the costs associated with maintaining and repairing on-airport infrastructure and/or improvements that facilitate TTF access. The airport sponsor should reserve the right to close the airport temporarily for emergencies, special events, or other situations without incurring any liability to the entity or being responsible for any damages that may result.

TTF ENTITY'S OBLIGATIONS

The TTF entity will have obligations that extend beyond the responsibilities described previously.

REFRAIN FROM DAMAGING AIRPORT PROPERTY

This provision would prohibit the TTF entity from engaging in any acts or practices that could damage airport property and/or that necessitate the repair of airport property, normal wear and tear excluded. This provision should also prohibit the entity from causing a nuisance.

FUELING AND FUEL STORAGE ARRANGEMENTS

A variety of fueling and fuel storage arrangements may be available to the parties. This provision should clarify the TTF's entity's rights, responsibilities, and obligations (if any) in this area. This is particularly important if the airport sponsor wants to regulate fueling and fuel storage in a manner other than that prescribed in the airport's policies, standards, rules, and regulations.

PAYMENT OF UTILITIES

The TTF entity should be responsible for the costs of utilities on the TTF property unless otherwise agreed upon by the parties.

COMPLIANCE WITH REGULATORY MEASURES

The TTF agreement should include a general "compliance with regulatory measures" provision that requires compliance with all applicable regulatory measures, but specifically references any key laws and regulations (e.g., FAA and Transportation Safety Administration regulations, civil rights, economic nondiscrimination, etc.).

COMPLIANCE WITH 14 CFR PART 77

The notice requirements for proposed construction and the standards for determining whether a structure is considered an obstruction or poses a hazard to air navigation are established in Part 77. It is advisable to include a provision that makes compliance with the notice requirements of Part 77 mandatory, clarifies that compliance with the notice requirements is the responsibility of the TTF entity (for infrastructure and/or improvements on the TTF property), and explicitly prohibits structures and natural objects which, as determined by the FAA, constitute an obstruction and/or are considered a hazard to air navigation.

COMPLIANCE WITH SIGNAGE RESTRICTIONS

The TTF agreement should specify whether signage is subject to airport-specific requirements (if signage is addressed in the airport's development standards) or to a local sign code. The airport sponsor may wish to impose additional restrictions regarding number, type, size, design, or location of signs on the TTF property. The agreement may also give the airport sponsor the right to approve any signage.

LICENSES AND CERTIFICATES

This provision would require the TTF entity to maintain any necessary licenses, certificates, permits, or other authorizations required for its operations. Such authorizations may be required from the FAA, SAO, or other governmental entities. Additionally, this provision would require that the entity keep records of such authorizations on site and available for inspection at all times.

NON-EXCLUSIVE RIGHT TO CONDUCT AERONAUTICAL ACTIVITIES

The TTF agreement should include a declaration that it does not confer an exclusive right to the TTF entity to engage in any aeronautical activity. This is the same provision that an airport sponsor would include in any on-airport agreement.

RIGHT OF AIRCRAFT TO OVERFLY AND IMPACT TTF PROPERTY

The TTF agreement should include the TTF entity's express permission for aircraft to overfly and impact the TTF property (i.e., to cause noise and other impacts) and the entity should release the airport sponsor from any liabilities that may be associated with any impacts on the property. In the alternative, the parties could execute an aviation easement that would accomplish these objectives. The aviation easement would be separate from, and survive, the TTF agreement and run with the land, regardless of the existence of TTF access rights.

TRANSFER, SUBLICENSE, AND ASSIGNMENT

A TTF entity may desire to transfer or sublease the TTF property, or to assign its rights in the property to another party, during the term of the TTF agreement. The airport sponsor may refuse to permit the transfer, sublease, and/or assignment of TTF access rights as a condition of granting access to the airport. In other words, the agreement would only be valid for a specific TTF entity and null and void for any other entity. On rare occasions, the sponsorship of the airport may change. As such, it is important to address the terms by which the agreement may survive such actions — if it survives at all — and whether any notification or approvals will be required.

ASSIGNMENT AND SUBLICENSE CONDITIONS

The TTF entity might be entirely prohibited from assigning its rights, responsibilities, and obligations under the TTF agreement to another party, whether by subleasing the TTF property or assigning the agreement. Alternatively, an airport sponsor might agree to allowing assignment or subleasing if the assignee or sublessee is subject to the prior approval of the airport sponsor.

ACTIONS CONSTITUTING ASSIGNMENT

Assignment may occur in a number of ways. The TTF agreement should identify the actions that would constitute an assignment of the agreement. This is particularly important if the airport sponsor wants to automatically terminate the agreement if the TTF property is sold and/or the TTF entity is acquired. The agreement should specify the effect such actions would have on the property (e.g., would partial interest in the property be transferred to another party, would the property be sub-divided, etc.).

EFFECT OF CHANGE OF SPONSORSHIP OF THE AIRPORT

While airports are likely to remain under stable sponsorship for extended periods of time, changes do occur (e.g., the creation and transfer of sponsorship to an airport authority). The TTF agreement should specify whether future sponsors of the airport will be bound by the agreement.

RIGHT OF INSPECTION

In this section, the rights of the airport sponsor and government entities to enter the TTF property to ensure compliance with the TTF agreement; the airport's policies, standards, rules and regulations; and applicable regulatory measures should be addressed. Typically, this provision imposes notice requirements and time restrictions for conducting such inspections.

PARTIES WITH RIGHT OF INSPECTION AND PERMISSIBLE PURPOSES FOR INSPECTION

Parties with the right to inspect the TTF property may include the airport sponsor and its agents and representatives of the FAA and SAO. The permissible purpose for conducting inspections is to determine whether the TTF entity is complying with the terms and conditions of the TTF agreement; the airport's policies, standards, rules, and regulations; and/or applicable regulatory measures.

PERMISSIBLE INSPECTION TIMES AND NOTICE REQUIREMENTS

Permissible times of access may be limited to, for example, weekdays and the airport sponsor's business hours. Additionally, the parties may agree that prior notice will be provided in a certain form (e.g., 24 hours advance written notice). The TTF agreement should include exceptions for waiving notice requirements (e.g., in an emergency).

PERFORMANCE OF MAINTENANCE AND REPAIRS REQUIRED BY INSPECTORS

For the inspections to be effective, corrective action must be taken. This provision requires the TTF entity to comply with any orders from the airport sponsor and/or government entities arising from the inspections. It may be helpful to define an order (e.g., written notice with explanation of the violation from an inspector) and outline the timeframe for the entity to comply with the order (i.e., commence and complete the corrective action).

INSPECTION IS NOT CAUSE FOR TERMINATION OR CLAIM OF INTERFERENCE

To conduct an inspection, the airport sponsor or other parties will need to enter the TTF property and potentially order the TTF entity to take corrective action. As such, it may be helpful to emphasize that inspection activities fall within the terms and conditions of the TTF agreement and such activities do not give rise to any causes of action that may benefit the entity.

AIRPORT SPONSOR'S RESERVATION OF RIGHTS

NOT RESPONSIBLE FOR AIRPORT CLOSURES OR WEATHER

While the airport sponsor may have an obligation to make good faith efforts to keep the airport open (as discussed previously), it is advisable to include a provision that specifies that the airport sponsor is not responsible for airport closures or the inability of the TTF entity to operate aircraft due to weather or other acts of nature. For example, the airport sponsor may want to state that it makes no assurances that the taxilane/taxiway by which the entity gains access to the airport will be usable at all times.

RIGHT TO LIMIT ACTIVITIES OR CONSTRUCTION THAT WOULD AFFECT SAFETY

This provision complements the requirement that the TTF entity must comply with Part 77 notice requirements and standards for determining whether a structure constitutes an obstruction and/or poses a hazard to air navigation. It may be desirable to include an additional provision that gives the airport sponsor a separate right to prohibit structures or activities that interfere with the safe operation of the airport.

RIGHT TO DEVELOP THE AIRPORT

Airport sponsors will often have plans for the future development of the airport (e.g., modifying or adding aprons, taxiways, or runways or making other improvements at the airport). Accordingly, it is advisable for the airport sponsor to convey its right to undertake such development and limit the TTF entity's ability to challenge it. If a project is currently being pursued or the airport sponsor is planning to pursue a project at or near the time the TTF agreement may be executed, the project should be identified and any special access or non-interference provisions that may be appropriate considering the situation and/or circumstances should be included in the agreement.

RIGHT TO IMPLEMENT POLICIES, STANDARDS, RULES, AND REGULATIONS

This is a catch-all provision that is designed to preserve the airport sponsor's right to govern the airport. More specifically, in the TTF agreement, the airport sponsor's right to develop, implement, and enforce the airport's policies, standards, rules, and regulations and take other actions that may have an impact on the TTF entity should be stipulated. Additionally, the parties may agree that prior notice will be provided to the TTF entity before such documents or changes go into effect.

RIGHTS DURING NATIONAL EMERGENCIES

To ensure consistency with the *Airport Sponsor Assurances* (if the airport has a National Emergency Use Provision), the TTF agreement needs to include a provision granting the airport sponsor the right to lease or transfer all or part of the airport property to the U.S. government and that any provisions of the agreement that conflict with this requirement would be suspended or terminated.

HOLD HARMLESS, INDEMNIFICATION, AND INSURANCE

The provisions in this section serve to allocate risk between the parties.

USE OF AIRPORT PROPERTY AT TTF ENTITY'S OWN RISK

The airport sponsor should declare that it is not liable for loss or injury to persons or property that occurs arising out of the TTF entity's use of the airport. The TTF agreement may also include language that the airport sponsor is not responsible for the entity's personal or real property, employees, customers, or other persons.

AIRPORT SPONSOR IS HELD HARMLESS

In this provision, the airport sponsor should declare that it is held harmless from all liabilities arising from injury or death to persons, damage to property, or claims for infringement of intellectual property arising out of the TTF entity's use of the airport, with exception of acts of negligence by the airport sponsor. The parties may wish to be specific about the terms of indemnification. Some of the more common terms include:

- **Costs covered by hold harmless/indegnification provisions** – Although the general language should cover the costs involved in defending the airport sponsor against any claims brought against it, it may be helpful to be more specific about some of the more frequently encountered costs that could be incurred.
- **Airport sponsor's ability to approve counsel** – Airport sponsor may wish to reserve the right to approve the TTF entity's choice of counsel used to defend the airport sponsor pursuant to the indemnification provision.
- **Airport sponsor's ability to elect to participate in legal defense of claims** – Airport sponsor may wish to include a provision that gives it the option to participate to ensure against an inadequate defense and whether the airport sponsor will bear costs of such a defense.
- **Airport sponsor's right to prompt and reasonable notice** – With regard to indemnified claims, this helps ensure that the airport sponsor will be kept informed. With regards to claims against the airport sponsor for negligence, this places some restrictions on the claims that could be brought against it alleging negligence.
- **The parties may agree that the indemnification provisions survive the termination of the TTF agreement.**

REIMBURSING THE AIRPORT SPONSOR FOR PENALTIES

The airport sponsor may wish to require that any penalties imposed on it resulting from the TTF entity's acts or inactions will be the responsibility of the entity. Such a provision should specify whether the fault of the TTF entity needs to be complete before this provision applies or if a partial fault will result in a partial reimbursement.

INSURANCE REQUIREMENTS

It is common for an airport sponsor to require that a TTF entity carry insurance that meets certain requirements. For example, a TTF agreement may require that the entity carry insurance as statutorily required by relevant workers compensation legislation. Depending on the type of TTF activity, a TTF entity may be required to carry commercial general liability, hangar keeper's legal liability, aircraft and passenger liability, and business automobile liability.

Minimum insurance coverages and the specific requirements for certificates of insurance should be identified. Often times, an airport sponsor will be listed as an additional insured. In the event a required policy is modified or cancelled, notice should be provided to the airport sponsor. Insurance requirements and related specifications can be included as an attachment to the agreement.

WAIVER OF INSURANCE SUBROGATION RIGHTS

The parties may desire to release each other from liability from any loss or damage to the property of the other party to the extent that such loss would be covered insurance, even if the other party caused the loss.

DEFAULT AND TERMINATION

A dispute over whether or not an event of default occurred, such that one of the parties may terminate the TTF agreement, is a significant conflict. While a dispute may start with a general reference to this section based on the proposition that a violation of any term or condition of the agreement is a cause for default, ultimately, the debate will focus on the alleged violation of a specific term or condition. Within this context, precise descriptions of the events that constitute a default will help reduce confusion and minimize disputes. It is important to note that some of the events giving rise to a party's right to terminate the agreement are events of default, while other events are not caused by either of the parties .

EVENTS GIVING RISE TO AIRPORT SPONSOR'S RIGHT TO TERMINATE

- TTF entity's violation of the TTF agreement including permitted TTF activities
- TTF entity's failure to pay the required rents and fees or maintain required insurance coverages
- TTF entity's loss of rights necessary for proper conduct of TTF activities
- TTF entity's abandonment of the TTF property
- Airport closure or substantial closure compelled by lawful authority (e.g., court injunction)
- Declaration that the TTF operations are inconsistent with federal and state obligations

EVENTS GIVING RISE TO TTF ENTITY'S RIGHT TO TERMINATE

- Airport sponsor's failure to provide reasonable means for TTF access
- Airport sponsor's violations of other provisions of the TTF agreement
- Assumption by the U.S. government of the operation and/or control of the airport
- Airport closure or substantial closure compelled by lawful authority
- Condemnation of the TTF property
- Declaration that TTF operations are inconsistent with Airport Sponsor Assurances

AT-WILL TERMINATION

In addition to the events giving rise to termination, the parties may agree that either party may elect to terminate the TTF agreement with prior notice in a certain form (e.g., 30 days advance written notice).

PROCEDURE FOR TERMINATION

It is important to establish the timeframes and notice requirements for curing a default. For example, if a TTF entity fails to pay the annual fee(s) on the designated day, it is immediately in default. Alternatively, the TTF agreement could stipulate that the entity would not be in default immediately, but that it would only be in default if it fails to cure the default within a certain number of days after receiving written notice from the airport sponsor. It is also helpful to identify the forms of communication that will be given legal significance during the process (e.g., written notice will be provided via certified mail). It may be desirable to specify the timeframe that termination would be effective (e.g., 30 days after the default).

EFFECT OF TERMINATION

It may be helpful to describe the implications of termination. For example, if the TTF entity were the defaulting party, then the TTF agreement might require that the entity pay any outstanding fees. Generally, when the agreement expires, the TTF access rights granted to the TTF entity would expire as well. The agreement may also include a requirement that the entity must, upon termination of the agreement, promptly remove any personal property, aircraft, vehicles, equipment, or other items from the airport property. Additionally, if the agreement is in the form of a lease, it may be appropriate to require quiet surrender and identify holdover provisions and related penalties.

ENVIRONMENTAL PROVISIONS

USING, STORING, GENERATING, TREATING, AND/OR DISPOSING OF HAZARDOUS SUBSTANCES

Federal, state, and local environmental laws and regulations can assign liability not only to the entities most directly involved with the pollution, but also to the entities who are indirectly involved (e.g., “transporters” or “arrangers”) under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). As a result, the airport sponsor will want to limit the possibility of any pollution being attributed to it by prohibiting the TTF entity from using, storing, generating, treating, or disposing of hazardous substances on-airport or adjacent premises without the airport sponsor’s consent.

COMPLIANCE WITH FEDERAL, STATE, AND LOCAL ENVIRONMENTAL LAWS AND REGULATIONS

While the importance of including a general “compliance with laws and regulations” provision has already been discussed, it may be helpful to include a separate environmental compliance clause dedicated solely to this issue in the TTF agreement. A list of applicable federal laws and regulations includes, but is not limited to, CERCLA; Resources Conservation Act; Toxic Substances Control Act; Federal Insecticide, Fungicide, and Rodenticide Act; Clean Water Act; Clean Air Act; and Occupational Safety and Health Act.

GENERAL PROVISIONS

TTF ENTITY HAS NO AUTHORITY TO ACT AS AN AGENT OF AIRPORT SPONSOR

This provision helps protect the airport sponsor from obligations or other liabilities that the TTF entity may attempt to assume on behalf of the airport sponsor. It also puts the entity on notice that it has no authority to act as an agent of the airport sponsor (i.e., that such activity is expressly prohibited).

TTF ENTITY HAS NO AUTHORITY TO CREATE LIENS AGAINST AIRPORT SPONSOR'S PROPERTY

This provision stipulates that the TTF entity's right to use the airport sponsor's property is merely contractual (or, at best, less-than-fee interest in a lease) and that the entity may not create a lien against or otherwise obligate the airport sponsor's property.

EFFECT OF CONDEMNATION OF TTF PROPERTY

If the TTF property is condemned, the parties should agree that the TTF agreement will be terminated.

WAIVER OF ONE OBLIGATION DOES NOT CONSTITUTE A WAIVER OF OTHER OBLIGATIONS

This provision defines the scope of a waiver. It may also be desirable to include provisions that specify the form in which a waiver must be made to be effective (e.g., written notice).

THE AGREEMENT CREATES NO THIRD PARTY BENEFICIARIES

This provision helps to ensure that only the TTF entity and the airport sponsor have rights, responsibilities, and obligations under the TTF agreement.

TIME IS OF THE ESSENCE

This provision encourages the timely completion of the responsibilities and obligations stated in the TTF agreement. If undue delay occurs, this provision can be cited to support the position that an action that is not completed in a timely manner can give rise to a violation of the terms and conditions of the agreement.

AGREE TO EXECUTE DOCUMENTS

This is a standard provision that requires the parties to take all reasonable steps to complete the execution of the TTF agreement and effectuate the terms, conditions, and intent of the agreement.

CERTIFY THAT SIGNATORIES HAVE AUTHORITY TO EXECUTE

This provision helps to ensure against a later challenge to the agreement based on formation grounds (i.e., predicated on the argument that the TTF agreement was never properly executed).

COUNTERPARTS TO THE TTF AGREEMENT CONSTITUTE ORIGINALS

This provision stipulates that signatures on separate pages, which may be necessary to transact business between parties in different locations or when transacting business via e-mail, are valid to execute the TTF agreement.

INTERPRETIVE PROVISIONS

The parties may agree to include terms and conditions that provide guidance in the case of future interpretive questions or conflict. For example, the parties may declare that captions and section numbers are for convenience only and should not aid in interpretation. Other potential provisions include agreed upon presumptions, the use of gender references, and the incorporation of recitals in the agreement.

GOVERNING LAW

This provision specifies the jurisdiction's rules that will be applied in interpreting the TTF agreement.

DISPUTE RESOLUTION

The parties may desire to create an administrative process through which disputes between the parties could be resolved. This may entail a review of the dispute by local government entities (e.g., city, town, or county council). The parties may also desire to waive the right to a jury trial in any dispute. Finally, the parties may agree to venue in a certain jurisdiction.

ATTORNEYS FEES AND COURT COSTS

The parties may agree that each party shall pay its own legal fees arising from any dispute. Alternatively, the parties may agree that the prevailing party shall be awarded attorney's fees and court costs.

OTHER COSTS AND EXPENSES

The parties may agree that each party will pay its own costs or expenses incurred or that will be incurred to execute and carry out the TTF agreement.

NOTICES, CONTACT INFORMATION, AND COMMUNICATION METHODS

The representatives of both parties should be identified in this provision. It is advisable that the parties be the same parties who execute the agreement. The parties' attorneys should be included as well. Contact information should include full name, title or position, company or organization, address, e-mail address, and phone number.

ENTIRE AGREEMENT

This provision should declare that the TTF agreement constitutes the entire agreement between the parties and that it supersedes any oral agreements made before executing the agreement. To ensure that it supersedes any oral representations, it should state that any modification to the agreement must be in writing.

SEVERABILITY

This provision stipulates that the remainder of the TTF agreement remains in force, even if certain provisions are found to be invalid.

6.7 WRAP-UP

This chapter outlined a best practices approach for developing and implementing a sound structure for TTF operations which included discussion of each of the following areas:

- **Policy** – An airport sponsor's policy on TTF operations identifies the permitted, restricted, and/or prohibited TTF activities for TTF operations. Additionally, the policy defines the key terms relevant to TTF operations, provides an overview of the application and approval process, outlines specific restrictions associated with TTF operations, and stipulates the possible grounds for denial of an application for TTF operations.
- **Application** – The application for TTF operations is utilized to obtain the information, data, and documentation necessary to conduct an assessment (discussed in Chapter 5: Assessing TTF Operations).
- **Rents and Fees** – Creating economic parity between TTF entities and on-airport operators, tenants, and users is one of the greatest issues associated with TTF operations. As such, it is imperative that airport sponsors develop and implement a TTF operations rents and fees policy that addresses the establishment and adjustment of rents and fees for the use of on-airport land, infrastructure, and/or improvements for TTF access; the use of TTF property land, infrastructure, and/or improvements; engaging in TTF activities; and TTF access.
- **Agreement** – The importance of having a TTF agreement cannot be understated. This legal written instrument stipulates the terms and conditions associated with TTF operations including engaging in TTF activities, using TTF access points, and using the airport. The most common forms of TTF agreements include deed restriction, easement, lease, license/permit, and contract. Consistent with best practices, the TTF agreement should be reviewed by the FAA before being executed by the airport sponsor and the TTF entity.

Best Practice

By providing a sound *structure* for TTF operations, airport management and policymakers can help ensure that the federally obligated airport will be planned, developed, operated, and managed to ensure the safety, utility, and efficiency of the airport for the benefit of the public.

CHAPTER SEVEN

MANAGING TTF OPERATIONS

- 7.1 Introduction
- 7.2 Airport Sponsor Regulatory Measures
- 7.3 Primary Planning Documents
- 7.4 Primary Management and Compliance Documents
- 7.5 Airport Operations
- 7.6 Education and Enforcement
- 7.7 Wrap-Up

If the airport sponsor...

- has existing TTF operations
- will have TTF operations

Then read...

- Chapter 7: Managing TTF Operations to:*
- develop and implement management and compliance documents
 - address common issues with TTF operations
 - formulate specific enforcement approaches

7.1 INTRODUCTION

Once TTF operations have been properly assessed (discussed in Chapter 5: Assessing TTF Operations) and a policy, application, rents and fees, and agreement for permitted TTF operations have been developed and implemented (discussed in Chapter 6: Structuring TTF Operations), airport management and policymakers need to manage the TTF operations taking place at the airport. This includes:

- developing (or modifying), implementing, and enforcing airport sponsor regulatory measures (e.g., zoning codes and building codes) and specific policies, standards, rules, and regulations (i.e., development standards) to manage the development of infrastructure and/or improvements associated with TTF operations;
- incorporating TTF operations into the airport's primary planning documents (e.g., airport strategic business plan, airport master plan, ALP, etc.); and
- developing (or modifying), implementing, and enforcing other specific policies, standards, rules, and regulations (i.e., primary management and compliance documents such as leasing/rents and fees policies, minimum standards, and rules and regulations) to manage TTF activities and TTF access.

After the airport planning, management, and compliance tools discussed in Chapter 4: Airport Planning, Management, and Compliance Tools have been developed (or modified) and implemented, airport management and policymakers should focus on educating TTF entities and enforcing the ordinances, policies, standards, rules, and regulations that have been established for TTF operations.

This chapter is predicated upon the assumption that an airport sponsor has established a policy permitting and/or restricting TTF operations and the TTF agreement permits enforcement of the airport sponsor's policies, standards, rules, and regulations. As such, this chapter discusses the best practices that airport management and policymakers can utilize to manage TTF operations at a federally obligated airport.

7.2 AIRPORT SPONSOR REGULATORY MEASURES

Airport management and policymakers should work closely with the authority that establishes and enforces zoning and building codes (if different from the airport sponsor) to ensure that the use and development of TTF property is addressed in the codes. As it relates specifically to TTF operations, the following elements should be considered for inclusion in the codes:

- Zoning districts for land that can be utilized for TTF operations
- Permitted types of TTF activities
- Height restrictions
- Outdoor lighting requirements
- Signage and landscaping requirements
- Parking and loading/unloading requirements

After zoning and building codes have been developed (or modified) and implemented to address TTF operations, airport management and policymakers should focus on educating the TTF entity about the code requirements and supporting the agency having responsibility for enforcing the codes.

Best Practice

7.3 PRIMARY PLANNING DOCUMENTS

AIRPORT STRATEGIC BUSINESS PLAN

The assessment of TTF operations (discussed in Chapter 5: Assessing TTF Operations) will help identify the impact that TTF operations could have, positive or negative, on realizing the mission and vision for the airport, achieving goals and objectives, and accomplishing action plans. Airport sponsors should update the airport's strategic business plan to reflect the results of the assessment with careful consideration being given to the airport sponsor's policy on TTF operations. More specifically, existing goals, objectives, and action plans may need to be modified to incorporate the airport sponsor's TTF operations policy and/or new goals, objectives, and action plans may need to be developed.

Best Practice

AIRPORT MASTER PLAN/LAYOUT PLAN

Airport management and policymakers should ensure that the airport master plan accounts for the developmental and operational impacts associated with existing and/or future TTF operations (identified during the assessment of TTF operations) and that the plan identifies the specific properties (located adjacent to the airport) that could be used for TTF operations.

Best Practice

Additionally, the specific properties that are (or could be) used for TTF operations, existing and potential TTF access points, and associated airside infrastructure should be identified on the ALP. By doing so, airport management and policymakers can protect on-airport land, infrastructure, and/or improvements that may be needed to facilitate TTF access in the future.

When incorporating TTF operations into an airport master plan and/or ALP, airport management and policymakers are encouraged to remain focused on the “big picture” or “the grand scheme of things.” This was a common theme expressed during the interviews conducted as part of the research for this guidebook. However, this does not mean that the ability of an airport to accommodate TTF operations should be eliminated, just that the focus or the priority should be on-airport. This is especially relevant if an airport sponsor is considering selling airport land to accommodate a TTF operation. Based on the interviews, such action was being contemplated by several airport sponsors.

In essence, airport management and policymakers should focus on developing on-airport land “first” (i.e., should make this a priority), creating an environment on-airport that is conducive to success (i.e., that helps on-airport operators engaged in commercial aeronautical activities be successful), and maintaining flexibility for future airport expansion and development while complying with the federal and state obligations including striving to be as financially self-sustaining as possible given the circumstances that exist.

Best Practice

Based on the interviews, some existing TTF properties and associated improvements are located in areas that are ideally suited for future on-airport expansion and development. For example, an existing TTF property at Philadelphia International Airport is located where a future runway is now being considered. This property was previously sold by the airport sponsor to the existing TTF entity.

To help mitigate or eliminate interference with airport development and operations, another theme that was expressed during the interviews by airport sponsors who have had little, if any, conflict relating to airport master planning is that coordination between TTF entities and local municipalities relating to the development of the landside infrastructure associated with TTF properties (e.g., roadways, water, sewer, etc.) is imperative. Additionally, based on the interviews, generally, it appears that TTF entities are desirous of participating in the master planning process as much, if not more, than on-airport entities.

7.4 PRIMARY MANAGEMENT AND COMPLIANCE DOCUMENTS

As discussed in Chapter 4: Airport Planning, Management, and Compliance Tools, the development (or updating), implementation, and enforcement of airport policies, standards, rules, and regulations (i.e., primary management and compliance documents) is the most common approach utilized by airport sponsors to manage the activities taking place on-airport. These documents can also be used to manage the TTF activities taking place on TTF property and the associated TTF access.

As such, airport management and policymakers should ensure that TTF operations are addressed in airport policies, standards, rules, and regulations (i.e., primary management and compliance documents). Based on the interviews, when these documents are being developed and/or updated to address TTF operations, airport management and policymakers should: (1) communicate with airport stakeholders (i.e., what type of TTF operation is being contemplated, where, when, why, and how), (2) follow a structured and open process, and (3) provide the opportunity for stakeholders to review and comment.

Best Practice

MINIMUM STANDARDS

While an airport sponsor may adopt a policy that permits TTF operations, the sponsor can prohibit commercial aeronautical TTF activities. This approach is consistent with FAA guidance.



If the TTF policy permits commercial aeronautical TTF activities, minimum standards should be used to establish the minimum qualifications and requirements that must be met as a condition for the right to conduct a commercial aeronautical activity. While airport sponsors may adopt a separate minimum standards document (or dedicate a specific section in an existing document) for engaging in commercial aeronautical TTF activities, it is not necessary to do so. Regardless of the approach utilized, standards for TTF activities should be consistent with the standards established for on-airport FBOs and SASOs.

Best Practice

Minimum standards typically address the following areas for each type of commercial aeronautical activity:

- scope of activities
- fuel storage and refueling vehicles (for FBOs)
- leased premises (land and improvements)
- aircraft, vehicles, and equipment
- hours of activity
- employees
- licenses and certificates
- insurance

As with on-airport FBOs and SASOs, any entity conducting commercial aeronautical TTF activities should have a revocable permit for the activity and it should be separate from the TTF agreement.

RULES AND REGULATIONS

This primary management and compliance document sets forth the rules and regulations to ensure the safety, utility, and efficiency of the airport for the benefit of the public. In addition to being applicable to aircraft and vehicle operations, operators and tenants must comply with rules and regulations including any provisions relating to fueling activities, fuel storage, and refueling vehicles.

While airport sponsors may adopt a separate rules and regulations document (or dedicate a specific section in an existing document) for TTF operations, it is not necessary to do so. However, the rules and regulations for TTF operations are typically consistent with the rules and regulations for on-airport operations. Regardless of the approach utilized, the rules and regulations for TTF operations should be enforced in the same manner as on-airport operations. Within this context, TTF operations can pose some unique issues that should be addressed in rules and regulations, as follows:

- **Use of TTF access points** – should be strictly limited to those entities having a TTF agreement with the airport sponsor. A TTF access point should not be an open door to other entities that have not been granted TTF access. Further, the use of TTF access points should be limited to aircraft – vehicles and pedestrians should not be permitted to use TTF access points. However, there may be situations and/or circumstances in which exceptions may be approved by the airport sponsor.
- **TTF access point control devices** – can be utilized to control and/or monitor TTF access activities. Such devices need to be used properly by TTF entities and not tampered with (or defeated).
- **Use of taxiway/taxilane to TTF access points** – should be strictly limited to aeronautical purposes. Unfortunately, taxiways and taxilanes on TTF property have been utilized by TTF entities for a variety of non-aeronautical purposes (e.g., walking, running, bike riding, roller blading, skateboarding, etc.).
- **Aircraft parking and staging on taxiway/taxilane to TTF access points** – should not be allowed to prevent the blocking of access to a TTF access point for an extended period of time. This can pose a significant problem when a single TTF access point is being utilized by multiple TTF entities (i.e., where there is only one way in and/or one way out of a TTF property).
- **Aircraft wingspan and weight** – should be limited to aircraft using TTF access points to a specified maximum wingspan and MTOW.
- **Self-service** – permissions, restrictions, and/or prohibitions relating to aircraft fueling, maintenance, and/or other self-service activities should be stipulated. While the right to engage in self-service activities (subject to the requirements established by the airport sponsor) is granted to on-airport entities under the Airport Sponsor Assurances, TTF entities do not have the same right. Therefore, an airport sponsor could prohibit all self-service activities on TTF property.
- **Transient aircraft use of TTF access points** – should require the TTF entity to obtain the prior approval of the airport sponsor unless otherwise agreed and stipulated in the TTF agreement. A request for approval should identify the TTF entity, the TTF access point, and the aircraft make, model, and registration number as well as arrival and departure dates and times.

DEVELOPMENT STANDARDS

This primary management and compliance document sets forth the parameters and standards governing the design, development (construction), and/or modifications of infrastructure and/or improvements on-airport.

While airport sponsors may adopt separate development standards (or dedicate a specific section in an existing document) for TTF properties, it is not necessary to do so. Regardless of the approach utilized, standards for the development of TTF properties should be consistent with the standards for the development of on-airport property. This will help ensure that the type of infrastructure and/or improvements developed on TTF property will be consistent with the type of infrastructure and/or improvements developed on-airport. However, TTF operations can pose some unique development issues that should be addressed in development standards, as follows:

- **TTF access points** – development standards should specify the type, dimensions, and materials for the fencing, gates, control devices, lighting, pavement, markings, signage, and landscaping associated with the TTF operation.
 - When possible, the number of TTF access points should be limited. Based on the interviews, airports with multiple TTF access points had more issues relating to safety and/or security and more problems involving access controls.
 - Unless vehicles and pedestrians are permitted to use TTF access points, signage should be placed, at TTF entity's cost and expense, at each TTF access point that states "no motor vehicles or pedestrians allowed beyond this point."
 - Airports under the jurisdiction of the TSA should coordinate closely with the agency to assure fencing, gates, and control devices satisfy the requirements of the TSA.
- **Taxiways and taxilanes** – development standards should specify the type, dimensions, and materials for lighting, pavement, markings, signage, and landscaping associated with the TTF operation.
 - Taxiways/taxilanes from a TTF access point should be designed to connect to a parallel taxiway versus a runway (with exception of the approach or departure ends of a runway).
 - At the TTF access point, taxiways/taxilanes should be marked with non-movement lines (instead of hold bars) to define separation.
- **Vehicle roadways** – on TTF property should be designed and constructed to ensure separation between aircraft and vehicle operations.
- **Stormwater systems** – on TTF property should be designed and constructed so that stormwater is retained on the TTF property and not allowed to flow onto airport property or the property of others.
- **Improvements** – on TTF property should not abut the property line of the airport. Further, the improvements should be designed and constructed based on proper setbacks. This will help ensure that the usefulness of the improvements will not be adversely impacted if TTF access is terminated or prohibited in the future.
- **Fencing** – should be developed to prevent non-aeronautical activities from occurring in the aircraft movement areas of the TTF property and/or beyond the TTF access points (i.e., on the airport) and comply with applicable TSA requirements.
- **Wildlife attractants** – including water detention ponds, gardens, composting, and other wildlife attractants should be strictly prohibited on TTF property.

OTHER MANAGEMENT AND COMPLIANCE DOCUMENTS

Airport management and policymakers should carefully review each of the other management and compliance documents for the airport to ensure that any impacts associated with TTF operations identified during the assessment process (discussed in Chapter 5: Assessing TTF Operations) are addressed (i.e., that the documents are modified accordingly). This review should encompass each of the following documents:

- Airport Certification Manual
- Security Plan
- Safety Management Plan
- Sustainability Management Plan
- Wildlife Management Plan
- Emergency (Preparedness/Response) Plan
- Irregular Operations Plan
- Environmental Management Plan (including Stormwater Management Plan/Stormwater Pollution Prevention Plan)
- Noise Abatement Plan
- Pavement Maintenance/Repair Program (including a Foreign Object Debris (FOD) Control Program)
- Snow Removal/Mowing Plan

7.5 AIRPORT OPERATIONS

TTF ACCESS

While the potential layouts for connecting TTF property with airport infrastructure are diverse and there are many approaches that can be utilized to facilitate TTF access, all the approaches share common characteristics, regardless of the type of TTF activity. The layout and physical linkage to an airport taxiway system is one of the most important factors in establishing and maintaining effective operational control.

One of the best methods for managing TTF access is to install a gate in the airport perimeter fence that is large enough to facilitate aircraft access. A variety of access control technologies exist for controlling gate operations. The type of access control technology employed is typically tied to the legal requirements stipulated in the TTF agreement with consideration being given to permitting/not permitting transient aircraft passage. When the requirements are less restrictive, a “universal” gate operator technology can be used to permit based and transient aircraft passage. Such a system can be activated using technology similar to pilot-controlled lighting or a coded “garage door opener” with manual override capability. When TTF access is limited to permitted aircraft only, more sophisticated access control technologies can be employed to ensure that the TTF access gate can only be opened by the owners/operators of permitted aircraft.

Some TTF operations may have direct access to the airport taxiway system. Not having an aircraft access gate can be beneficial to the TTF entity as this arrangement eliminates the possibility of an aircraft owner/operator not being able to access the airport or the TTF property if a gate malfunctions. While convenient, with “non-gated” TTF access, any aircraft owner/operator could gain access to the property which could be problematic for the airport sponsor from a legal, financial, safety, and security standpoint. As discussed previously, the FAA has stated that TTF access points should not provide direct access to a runway. Therefore, a midfield taxiway from a TTF property would not meet FAA requirements. Further, it is important to note that AIP funds cannot be used to fund a parallel taxiway that only benefits a TTF operation.

SAFETY AND SECURITY

The introduction of aircraft to an airport's airside infrastructure from TTF property creates safety and security risks and possible liability exposure for an airport sponsor. The nature and extent of the inherent risk exposure is dependent on a number of factors including a state's sovereign immunity statutes and the actions or inactions of the airport sponsor as it relates to assessing, managing, and/or mitigating the risks associated with TTF operations. Ensuring that aircraft can safely and securely access the airport's taxiway system from TTF property and vice versa without compromising airport safety, utility, and efficiency is essential if TTF operations are going to be permitted.

Other than prohibiting TTF operations altogether, the second most secure method to maintain airport perimeter security, while permitting TTF operations, is to maintain a perimeter fence and a TTF access security gate. As discussed previously, "non-gated" TTF access can create undesirable safety and security risks and possible liability exposure for an airport sponsor. Another method that could be effective is requiring an access control perimeter around the TTF properties to prevent unauthorized access to the AOA.

Maintaining the safety and security of the taxilanes located on TTF property can, either intentionally or by default, become the responsibility of the airport sponsor, as on-airport safety, utility, and efficiency is often directly impacted by TTF operations. For taxilanes located on TTF property that are considered "common use" (i.e., used by several TTF properties), a "property owners association" can be formed to maintain the safety and security of the taxilanes or one TTF entity can assume this responsibility on behalf of all TTF entities.

MAINTENANCE RESPONSIBILITY

Airport sponsors should maintain the airport's land, infrastructure, and improvements, including the TTF access points, up to the property line. This includes mowing, sweeping, and snow removal. TTF entities should be required to maintain the land, infrastructure, and improvements located on the TTF property.

Best Practice

If an airport sponsor has unique equipment (i.e., sweepers) and the TTF entity has unique equipment (i.e., heavy machinery to remove snow), each party could agree to provide reciprocal services to (or on behalf of) the other on an as needed basis. In these types of situations, the value of providing such services should be quantified and each party should be properly reimbursed – directly or indirectly. However, if airport equipment is used to maintain non-airport related infrastructure and/or improvements without proper reimbursement of costs or the establishment of an appropriate fee, this could be considered inappropriate use of AIP funded equipment or "revenue diversion" by the FAA. To avoid this situation, an airport manager interviewed for this guidebook made arrangements for the city's public works department to maintain and sweep the city-owned taxilanes located in the airpark rather than use airport equipment purchased with AIP funds.

INCURSIONS

Based on the interviews and survey results, airports with TTF operations that separate aircraft, vehicle, and pedestrian traffic report the fewest vehicle incursions onto the airport's airfield infrastructure. For example, Independence State Airport (Independence, Oregon) requires residential TTF property owners to have vehicle access to residences in the front of the home via public roadways and to have aircraft access to residences in the back of the home via aircraft taxilanes. This ensures aircraft and vehicles do not mix and that vehicles do not mistakenly end up being driven onto airport property. In order to eliminate go-cart racing on city-owned and privately owned-taxiways, the City of Scottsdale and TTF property owners took steps to prevent all vehicle access to the airpark's taxilanes.

Some TTF entities attempt to address this issue by creating a landside gated TTF property. However, visitors, package delivery, and other guests still need to utilize the gate to access the property and unless there is proper signage, pavement markings, gates, and/or fencing to prevent incursion onto the airport, it is likely to continue to occur.

7.6 EDUCATION AND ENFORCEMENT

EDUCATION

Planning, developing, operating, and managing a federally obligated airport is a complex task and permitting TTF operations can make it even more complicated. As such, airport management and policymakers should take appropriate and proactive steps to educate TTF entities and stakeholders regarding the statutes, assurances, policies, and guidance that the airport sponsor must comply with and the primary planning documents and primary management and compliance documents that the airport sponsor has adopted to help maintain compliance and plan, develop, operate, and manage the airport to ensure the safety, utility, and efficiency of the airport for the benefit of the public. Education of TTF entities can be accomplished in many ways including the following:

Best Practice

AVAILABILITY OF INFORMATION, DATA, AND/OR DOCUMENTATION

Airport management and policymakers should have relevant information, data, and/or documentation available in printed and/or electronic form (e.g., on airport sponsor's website and/or provide links to external websites), including:

Best Practice

- federal, state, and local statutes, assurances, policies, and guidance;
- airport sponsor regulatory measures (e.g., ordinances, zoning codes, building codes, etc.);
- airport sponsor primary planning documents (e.g., strategic business plan, master plan, ALP, etc.);
- airport sponsor primary management and compliance documents (e.g., leasing/rents and fees policy, minimum standards, rules and regulations, development standards, etc.); and
- TTF policy, application, rents and fees, and draft agreement.

DISCUSSION OF INFORMATION, DATA, AND/OR DOCUMENTATION

Airport management should take advantage of opportunities to discuss relevant information, data, and documentation with prospective and existing TTF entities. This would include the following opportunities:

Best Practice

- when interest is expressed to obtain TTF access rights, engage in TTF activities, and/or develop infrastructure and/or improvements on TTF property and/or on-airport to facilitate TTF access;
- when an application for TTF operations is submitted and approved;
- when a TTF agreement is negotiated, executed, modified, and/or renewed; and
- when a policy, standard, rule, or regulation is violated by the TTF entity or a user of TTF property.

COLLABORATION

Airport management and policymakers should invite TTF entities and stakeholders to participate in:

Best Practice

- the development, review, and/or update of primary planning documents;
- the development, review, and/or revision of policies, standards, rules, and regulations (i.e., primary management and compliance documents); and
- other meetings, events, or activities at which topics that could have an impact on TTF operations or the TTF entity's use of the airport will be discussed.

TRAINING

Airport management should establish initial and recurrence training programs for TTF entities and the users of TTF properties that focus on maintaining compliance with the policies, standards, rules, and regulations pertaining to TTF activities, TTF access, and use of the airport.

Best Practice

COMMUNICATION

Airport management and policymakers should proactively develop multiple channels of communication with TTF entities to discuss:

Best Practice

- existing and upcoming events (e.g., construction activities) at the airport that could impact TTF operations;
- existing and upcoming events (e.g., construction activities) on the TTF property that could impact the airport sponsor and on-airport operators, tenants, and users; and
- upcoming meetings, events, or activities that could have an impact on TTF operations or the TTF's entity's use of the airport.

A presentation template can be found at <http://www.trb.org/Main/Blurbs/170955.aspx>. Once customized for the airport and the TTF operation, this presentation template can be used by airport management and policymakers for educating TTF entities and airport stakeholders on the advantages, disadvantages, and impacts associated with TTF operations (in general) and the opportunities and issues of existing, proposed, or future TTF operations (specifically).

ENFORCEMENT

The primary rule of enforcement is... the airport sponsor should not adopt any policy, standard, rule, or regulation that airport management or policymakers are unwilling, unprepared, or unable to enforce consistently and uniformly.

Best Practice

The inherent nature of TTF operations is such that airport management and policymakers (especially at airports with multiple TTF entities) will be drawn into conflicts between TTF entities that are not directly related to the airport sponsor's policies, standards, rules, or regulations. If a conflict impacts the safety, utility, or efficiency of the airport, it must be addressed. However, if that is not the case, it is recommended that airport management and policymakers take a neutral position and remove themselves (if possible and as soon as practicable) from the conflict.

COMMON VIOLATIONS

Some of the most common violations of airport sponsor policies, standards, rules, and regulations relating to TTF operations (provided in no particular order) include:

- adjacent property owners/users, without TTF agreements, utilizing TTF access points;
- TTF entities engaging in prohibited TTF activities including commercial aeronautical activities and non-commercial self-fueling;
- transient aircraft using TTF access points without proper notification or permission;
- prohibited use of TTF access points by vehicles and pedestrians;
- improper use of taxiways/taxilanes on TTF property;
- gates at TTF access points not being closed/secured properly; and
- development of infrastructure and/or improvements without notification or approval.

While some of these violations may constitute a default under a TTF agreement, most are operational in nature and related, in some way, to the airport sponsor's policies, standards, rules, and regulations. Additional violations relating to TTF agreements are discussed in Chapter 6: Structuring TTF Operations. Regardless of the type of violation, airport management needs to closely monitor TTF operations for compliance, and if necessary, take appropriate enforcement action in a timely manner.

The FAA, SAOs, attorneys and consultants (who specialize in TTF operations) can be great resources for identifying solutions and alternatives that have worked at other federally obligated airports to enforcement issues related to TTF operations. Further, representatives of these entities may be available to discuss issues with airport management and policymakers; TTF entities, on-airport operators, tenants, and users; and/or the community.

ENFORCEMENT MECHANISMS

When an airport sponsor policy, standards, rule, or regulation is violated by a TTF entity, there are several enforcement mechanisms available to airport management and policymakers. Most importantly, one or more of these mechanisms should be identified in the TTF agreement (discussed in Chapter 6: Structuring TTF Operations). A brief discussion of each enforcement mechanism follows:

- **License/Permit Revocation** – The revocation of a license/permit is a simple mechanism when compared to the process of defaulting a TTF entity and terminating a TTF agreement. After giving notice and if the violation is not cured by the TTF entity within the prescribed timeframe, an airport sponsor can revoke an entity's license/permit and related privileges including TTF access.
- **Agreement Termination** – If a TTF agreement includes the exclusive use of certain airport land, infrastructure, and/or improvements, the termination of an agreement can be more complicated than revocation of a license/permit, as the airport sponsor must follow the default protocols stipulated in the agreement and may require a court order to terminate an agreement. It is also important to note that termination of access rights associated with a deed restriction or easement may be difficult.
- **Lien** – If an airport sponsor must expend funds to maintain land, infrastructure, and/or improvements that are the responsibility of the TTF entity or the TTF entity owes the airport sponsor rents and fees, the airport sponsor may file a lien on the land, infrastructure, and/or improvements.
- **Immediate Suspension of Rights** – If a TTF agreement or the airport sponsor's policies, standards, rules, and regulations stipulate that an entity's rights can be immediately suspended for a violation, an airport sponsor can take immediate action to prevent TTF access (e.g., lock the gate).
- **Late Charges** – Nonpayment or late payment of any rents and fees due and owing can include assessment of late charges and other fees.

The process for enforcing a TTF agreement should include a verbal warning followed by written warnings for non-compliance. However, in certain non-compliance situations (depending upon the severity), immediate revocation of TTF access may be warranted. If necessary, agreements should be terminated for non-compliance which is not cured or remedied in a prompt, correct, and complete manner. Airport sponsors that have TTF agreements with an HOA (versus individual TTF entities) typically enforce the agreement through the HOA. The HOA is responsible for educating association members and enforcing the agreement (and the airport's primary management and compliance documents) and collecting (and remitting to the airport sponsor) applicable rents and fees. Ultimately, if compliance is not maintained by the HOA (in general) and association members (in particular), the TTF agreement should be terminated and TTF access should be discontinued.

7.7 WRAP-UP

This chapter outlined a best practices approach for managing TTF operations and emphasized the importance of developing (or updating), implementing, and enforcing the airport planning, management, and compliance tools used to manage TTF operations including:

- **Airport Sponsor Regulatory Measures** (e.g., zoning, building codes, etc.) – help ensure that TTF property will be developed and used in a manner that does not have an adverse or detrimental impact on safety, utility, or efficiency of the airport;
- **Primary Planning Documents**
 - Airport strategic business plan – the results of the assessment of TTF operations can be used to help establish goals, objectives, and action plans that incorporate the airport sponsor's policy on TTF operations;
 - Airport master plan and ALP – can be used to assess the developmental and operational impacts associated with existing and/or future TTF operations and identify the specific properties (located adjacent to the airport) that could be used for TTF operations and the access points that could be used to provide TTF access to the airport; and
- **Primary Management and Compliance Documents** (e.g., minimum standards, rules and regulations, development standards, etc.) – specific issues relating to TTF operations can be addressed in policies, standards, rules, and regulations.

Additionally, this chapter identified and discussed many of the most common airport operational issues relating to TTF operations (e.g., TTF access, safety and security, maintenance and repair, and incursions) and outlined a best practices approach for educating TTF entities and enforcing the most common violations associated with TTF operations.

APPENDIX A: AIRPORT SPONSOR ASSURANCES



**FAA
Airports**

Grant 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, 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.

C. Sponsor Certification. The sponsor hereby assures and certifies, with respect to this grant that:

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

Federal Legislation

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

Executive Orders

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

Federal Regulations

- a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
- b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 14 CFR Part 150 - Airport noise compatibility planning.
- d. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- e. 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
- f. 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
- g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- i. 49 CFR Part 20 - New restrictions on lobbying.
- j. 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.
- k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.^{1,2}
- m. 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
- n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.¹
- o. 49 CFR Part 29 – Government wide debarment and suspension (nonprocurement) and government wide requirements for drug-free workplace (grants).
- p. 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.

- q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.¹

Office of Management and Budget Circulars

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
- b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

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 OMB Circular A-87 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.

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.

2. Responsibility and Authority of the Sponsor.

- a. **Public Agency Sponsor:** It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
- b. **Private Sponsor:** It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

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

4. Good Title.

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

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

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure

- 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. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.
11. **Pavement Preventive Maintenance.** With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport

pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. **Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.
13. **Accounting System, Audit, and Record Keeping Requirements.**
 - a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
 - b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.
14. **Minimum Wage Rates.** It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.
15. **Veteran's Preference.** It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However,

this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. **Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.
17. **Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.
18. **Planning Projects.** In carrying out planning projects:
 - a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
 - b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
 - c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
 - d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
 - e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
 - f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
 - g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
 - h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:
 - 1) Operating the airport's aeronautical facilities whenever required;
 - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

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

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

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
 - 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
 - i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.
- 23. Exclusive Rights.** It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:
- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
 - b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.
- 24. Fee and Rental Structure.** It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.
- 25. Airport Revenues.**
- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air

transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:

- 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
 - 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
 - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
 - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections. It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times

- and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
 - c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
 - d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.
- 27. Use by Government Aircraft.** It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –
- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
 - b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.
- 28. Land for Federal Facilities.** It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; (3) the location of all existing and proposed 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. 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 comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where 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: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the sponsor retains ownership or possession of the property.

31. Disposal of Land.

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

- by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.
32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement **prescribed** for or by the sponsor of the airport.
33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated _____ (the latest approved version as of this grant offer) and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.
35. **Relocation and Real Property Acquisition.** (1) 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. (2) 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. (3) 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 recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 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 1986 (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.

APPENDIX B: AIRPORTS WITH TTF OPERATIONS

Airport Name	Airport Identifier	City, State	NPIAS Classification	General Aviation Airports: National Asset Classification	Type of TTF Activity				
					Residential	Commercial Aeronautical	Non Commercial Aeronautical	Non Aeronautical	Governmental Military
Alabama									
Chilton County Airport	02A	Clanton, AL	General Aviation Airport	Local	X				
Lanett Municipal Airport	7A3	Lanett, AL	General Aviation Airport	Basic	X				
Monroe County Airport	MVC	Monroeville, AL	General Aviation Airport	Local	X	X			
Alaska									
Girdwood Airport	AQY	Girdwood, AK	General Aviation Airport	Other	X				
Kodiak Municipal Airport	KDK	Kodiak, AK	General Aviation Airport	Other	X				
Manley Hot Springs Airport	MLY	Manley Hot Springs, AK	General Aviation Airport	Basic	X				
Ninilchik Airport	NIN	Ninilchik, AK	General Aviation Airport	Other	X				
Skagway Airport	AGY	Skagway, AK	General Aviation Airport	Local	X				
Tok Junction Airport	6K8	Tok, AK	General Aviation Airport	Local	X				
Arizona									
Bisbee Municipal Airport	P04	Bisbee, AZ	General Aviation Airport	Basic	X				
Chandler Municipal Airport	CHD	Chandler, AZ	Reliever Airport	Regional					
Eloy Municipal Airport	E60	Eloy, AZ	General Aviation Airport	Local		X			
Payson Airport	PAN	Payson, AZ	General Aviation Airport	Local	X	X			
Phoenix Deer Valley Airport	DVT	Phoenix, AZ	Reliever Airport	National		X			
Scottsdale Airport	SDL	Scottsdale, AZ	Reliever Airport	National		X	X		
Arkansas									
Springdale Municipal Airport	ASG	Springdale, AR	General Aviation Airport	Regional			X		
California									
Boonville Airport	D83	Boonville, CA	General Aviation Airport	Basic	X				
Cable Airport	CCB	Upland, CA	Reliever Airport	Regional		X			
Cameron Airpark	O61	Cameron Park, CA	General Aviation Airport	Local	X				
Gillespie Field Airport	SEE	El Cajon, CA	Reliever Airport	National	X				
Nevada County Air Park	GOO	Grass Valley, CA	General Aviation Airport	Local	X				
Ontario International Airport	ONT	Ontario, CA	Medium Hub-PCS Airport	N/A				X	
Pine Mountain Lake Airport	E45	Groveland, CA	General Aviation Airport	Basic	X				
Redding Municipal Airport	RDD	Redding, CA	Nonhub-PCS Airport	N/A					X
Ruth Airport	T42	Ruth, CA	General Aviation Airport	Basic	X				
Sacramento Executive Airport	SAC	Sacramento, CA	Reliever Airport	Regional	X				
Trinity Center Airport	O86	Trinity Center, CA	General Aviation Airport	Local	X				
Colorado									
Boulder Municipal Airport	BDU	Boulder, CO	General Aviation Airport	Local	X				
Centennial Airport	APA	Englewood, CO	Reliever Airport	National		X	X	X	
Erie Municipal Airport	EIK	Erie, CO	General Aviation Airport	Local	X				
Ft Collins-Loveland Municipal Airport	FNL	Fort Collins/Loveland, CO	Nonhub-PCS Airport	N/A					
Meadow Lake Airport	FLY	Meadow Lake, CO	General Aviation Airport	Local	X				
Montrose Regional Airport	MTJ	Montrose, CO	Nonhub-PCS Airport	N/A		X		X	
San Luis Valley Regional Airport	ALS	Alamosa, CO	General Aviation Airport	Local	X				
Spanish Peaks Airfield	4V1	Walsenburg, CO	General Aviation Airport	Basic	X				
Connecticut									
Danbury Municipal Airport	DXR	Danbury, CT	Reliever Airport	Regional	X	X			
Florida									
Avon Park Executive Airport	AVO	Avon Park, FL	General Aviation Airport	Local		X			
Bob Sikes Airport	CEW	Crestview, FL	General Aviation Airport	Regional				X	
Fort Lauderdale Executive Airport	FXE	Fort Lauderdale, FL	Reliever Airport	National			X		
La Belle Municipal Airport	X14	La Belle, FL	General Aviation Airport	Local	X				
Leesburg International Airport	LEE	Leesburg, FL	General Aviation Airport	Regional		X			
Punta Gorda Airport	PGD	Punta Gorda, FL	Nonhub-PCS Airport	N/A		X			
Umatilla Municipal Airport	X23	Umatilla, FL	General Aviation Airport	Basic			X		
Vero Beach Municipal Airport	VRB	Vero Beach, FL	General Aviation Airport	Regional		X			
Winter Haven's Gilbert Airport	GIF	Winter Haven, FL	General Aviation Airport	Regional					
Georgia									
Clayton County Airport- Tara Field	4A7	Hampton, GA	General Aviation Airport	Regional		X	X		
Heart of Georgia Regional Airport	EZM	Eastman, GA	General Aviation Airport	Local		X			
Savannah-Hilton Head Intl Airport	SAV	Savannah, GA	Small Hub-PCS Airport	N/A				X	
Idaho									
Driggs-Reed Memorial Airport	DIJ	Driggs, ID	General Aviation Airport	Local	X				
Sandpoint Airport	S2T	Sandpoint, ID	General Aviation Airport	Local	X				
Weiser Municipal Airport	S87	Weiser, ID	General Aviation Airport	Basic	X				
Illinois									
Chicago Executive Airport	PWK	Prosp Heights/Wheeling, IL	Reliever Airport	National		X			
Lake in the Hills Airport	3CK	Lake in the Hills, IL	Reliever Airport	Regional		X			
St. Louis Regional Airport	ALN	Alton, IL	Reliever Airport	Regional		X			
Indiana									
Delaware County Airport	MIE	Muncie, IN	General Aviation Airport	Regional		X			
Huntington Municipal Airport	HHG	Huntington, IN	General Aviation Airport	Local	X				
Henry County Municipal Airport	UWL	New Castle, IN	General Aviation Airport	Local		X			
Salem Municipal Airport	I83	Salem, IN	General Aviation Airport	Local	X				
Terre Haute Intl Airport	HUF	Terre Haute, IN	General Aviation Airport	Local					X

Airport Name	Airport Identifier	City, State	NPIAS Classification	General Aviation Airports: National Asset Classification	Type of TTF Activity				
					Residential	Commercial Aeronautical	Non Commercial Aeronautical	Non Aeronautical	Governmental Military
Iowa									
The Eastern Iowa Airport	CID	Cedar Rapids, IA	Small Hub-PCS Airport	N/A		X	X		
Kansas									
Mark Hoard Memorial Airport	3K7	Leoti, KS	General Aviation Airport	Basic	X				
Norton Municipal Airport	NRN	Norton, KS	General Aviation Airport	Local	X				
Salina Municipal Airport	SLN	Salina, KS	Nonhub-PCS Airport	Regional					X
Syracuse-Hamilton County Airport	3K3	Syracuse, KS	General Aviation Airport	Local	X				
Kentucky									
Fleming-Mason Airport	FGX	Flemingsburg, KY	General Aviation Airport	Local	X				
Grayson County Airport	M20	Leitchfield, KY	General Aviation Airport	Other	X				
Louisville Intl Airport	SDF	Louisville, KY	Small Hub-PCS Airport	N/A				X	
Maine									
Newton Field (Jackman) Airport	59B	Jackman, ME	General Aviation Airport	Basic	X				
Wiscasset Airport	IWI	Wiscasset, ME	General Aviation Airport	Local	X				
Maryland									
Hagerstown Regional Airport	HGR	Hagerstown, MD	Nonhub-PCS Airport	N/A		X			
Massachusetts									
Gardner Municipal Airport	GDM	Gardner, MA	General Aviation Airport	Local	X				
Michigan									
Abrams Municipal Airport	4D0	Grand Ledge, MI	General Aviation Airport	Local	X				
Bois Blanc Island Airport	6Y1	Bois Blanc, MI	General Aviation Airport	Basic	X				
Charlevoix Municipal Airport	CVX	Charlevoix, MI	Nonhub-PCS Airport	N/A	X				
Cherry Capital Airport	TVC	Traverse City, MI	Nonhub-PCS Airport	N/A		X	X		X
Dupont-Lapeer Airport	D95	Lapeer, MI	General Aviation Airport	Local	X				
Frankfort Dow Memorial Field	FKS	Crystal Lake, MI	General Aviation Airport	Local	X				
Harbor Springs Airport	MGN	Harbor Springs, MI	General Aviation Airport	Local	X				
Kalamazoo/Battle Creek Intl Airport	AZO	Kalamazoo, MI	Nonhub-PCS Airport	N/A		X			
Muskegon County Airport	MKG	Muskegon, MI	Nonhub-PCS Airport	N/A					
St. Clair County Intl Airport	PHN	Port Huron, MI	Reliever Airport	Regional		X	X		X
Wexford County Airport	CAD	Cadillac, MI	General Aviation Airport	Local	X				
Minnesota									
Glenwood Municipal Airport	GHW	Glenwood, MN	General Aviation Airport	Basic	X				
Paynesville Municipal Airport	PEX	Paynesville, MN	General Aviation Airport	Basic	X				
Worthington Municipal Airport	OTG	Worthington, MN	General Aviation Airport	Local	X				
Mississippi									
Stennis International Airport	HAS	Bay St. Louis, MS	General Aviation Airport	Regional		X			X
Trent Lott International Airport	PQL	Pascagoula, MS	General Aviation Airport	Regional				X	
Missouri									
Cameron Memorial Airport	EZZ	Cameron, MO	General Aviation Airport	Local	X				
Caruthersville Memorial Airport	M05	Caruthersville, MO	General Aviation Airport	Other	X				
Lamar Municipal Airport	LLU	Lamar, MO	General Aviation Airport	Other	X				
Mountain View Airport	MNF	Mountain View, MO	General Aviation Airport	Local	X				
Montana									
Baker Municipal Airport	BHK	Baker, MT	General Aviation Airport	Local	X				
Ennis-Big Sky Airport	EKS	Ennis, MT	General Aviation Airport	Local	X				
Eureka Airport	88M	Eureka, MT	General Aviation Airport	Local	X				
Laurel Airport	658	Laurel, MT	General Aviation Airport	Local	X				
Nevada									
Carson City Airport	CXP	Carson City, NV	Reliever Airport	Regional		X	X		
New Hampshire									
Berlin Regional Airport	BML	Berlin, NH	General Aviation Airport	Local	X				
Skyhaven Airport	DAW	Rochester, NH	General Aviation Airport	Local	X				
New Jersey									
Hammonton Municipal Airport	N81	Hammonton, NJ	General Aviation Airport	Local	X				
Ocean City Municipal Airport	26N	Ocean City, NJ	General Aviation Airport	Local	X				
South Jersey Regional Airport	VAY	Mount Holly, NJ	Reliever Airport	Local	X				
New York									
Elmira Corning Regional Airport	ELM	Elmira, NY	Nonhub-PCS Airport	Other				X	
Ledgedale Airpark	7G0	Brockport, NY	Reliever Airport	Other	X				
Piseco Airport	K09	Piseco, NY	General Aviation Airport	Basic	X				
Randall Airport	06N	Middletown, NY	Reliever Airport	Other	X				
Sky Acres Airport	44N	Millbrook, NY	Reliever Airport	Other	X				
South Albany Airport	4B0	South Bethlehem, NY	General Aviation Airport	Other	X				
Stewart International Airport	SWF	Newburgh, NY	Nonhub-PCS Airport	N/A					X
North Carolina									
Anson County Airport	AFP	Wadesboro, NC	General Aviation Airport	Local	X				
Clinton-Sampson County Airport	CTZ	Clinton, NC	General Aviation Airport	Local			X		
Currituck County Regional Airport	ONX	Currituck, NC	General Aviation Airport	Local	X				
Lumberton Municipal Airport	LBT	Lumberton, NC	General Aviation Airport	Local	X				

Airport Name	Airport Identifier	City, State	NPIAS Classification	General Aviation Airports: National Asset Classification	Type of TTF Activity				
					Residential	Commercial Aeronautical	Non Commercial Aeronautical	Non Aeronautical	Governmental Military
North Dakota									
Hamry Field Airport	K74	Kindred, ND	General Aviation Airport	Local	X				
LaMoure Rott Municipal Airport	4F9	LaMoure, ND	General Aviation Airport	Other		X			
Ohio									
Ashland County Airport	3G4	Ashland, OH	General Aviation Airport	Local	X				
Brown County Airport	GEO	Georgetown, OH	General Aviation Airport	Local	X				
Clermont County Airport	I69	Batavia, OH	General Aviation Airport	Other	X	X			
Henry County Airport	7W5	Napoleon, OH	General Aviation Airport	Local	X				
Kelleys Island Land Field Airport	89D	Kelleys Island, OH	General Aviation Airport	Basic	X				
Morrow County Airport	419	Mount Gilead, OH	General Aviation Airport	Local	X				
Port Columbus Airport	CMH	Columbus, OH	Medium Hub-PCS Airport	N/A		X		X	
Portage County Airport	POV	Ravenna, OH	General Aviation Airport	Local	X				
Put-in-Bay Airport	3W2	Put In Bay, OH	General Aviation Airport	Basic	X				
Oklahoma									
Hooker Municipal Airport	O45	Hooker, OK	General Aviation Airport	Basic	X				
Skiatook Municipal Airport	2F6	Skiatook, OK	General Aviation Airport	Basic	X				
Tulsa International Airport	TUL	Tulsa, OK	Small Hub-PCS Airport	N/A					X
Oregon									
Aurora State Airport	UAO	Aurora, OR	General Aviation Airport	National	X				
Christmas Valley Airport	62S	Christmas Valley, OR	General Aviation Airport	Basic	X				
Gold Beach Municipal Airport	4S1	Gold Beach, OR	General Aviation Airport	Basic	X				
Grants Pass Airport	3S8	Grants Pass, OR	General Aviation Airport	Local		X			
Hobby Field Airport	77S	Creswell, OR	General Aviation Airport	Local	X				
Independence State Airport	7S5	Independence, OR	General Aviation Airport	Local	X				
Ken Jernstedt Airfield	4S2	Hood River, OR	General Aviation Airport	Local	X				
Lake County Airport	LKV	Lakeview, OR	General Aviation Airport	Basic	X				
Lebanon State Airport	S30	Lebanon, OR	General Aviation Airport	Local	X				
Lexington Airport	9S9	Lexington, OR	General Aviation Airport	Other		X			
Roberts Field Airport	RDM	Redmond, OR	Nonhub-PCS Airport	N/A		X			
Scappoose Industrial Airpark	SPB	Scappoose, OR	General Aviation Airport	Local		X			
Wasco State Airport	3S5	Wasco, OR	General Aviation Airport	Other	X				
Pennsylvania									
Butler County Airport	BTP	Butler, PA	Reliever Airport	Regional	X				
Gettysburg Regional Airport	W05	Gettysburg, PA	General Aviation Airport	Basic	X				
Philadelphia International Airport	PHL	Philadelphia, PA	Large Hub-PCS Airport	N/A			X		
Punxsutawney Municipal Airport	N35	Punxsatawney, PA	General Aviation Airport	Other	X				
Somerset County Airport	2G9	Somerset, PA	General Aviation Airport	Local	X				
Rhode Island									
Westerly State Airport	WST	Westerly, RI	Nonhub-PCS Airport	N/A					
South Carolina									
Aiken Municipal Airport	AIK	Aiken, SC	General Aviation Airport	Regional		X			
Bamberg Airport	99N	Bamberg, SC	General Aviation Airport	Other	X				
Columbia Metropolitan Airport	CAE	Columbia, SC	Small Hub-PCS Airport	N/A			X		
Hilton Head Airport	HXD	Hilton Head, SC	Nonhub-PCS Airport	N/A		X			
Rock Hill (York Co) Airport	UZA	Rock Hill, SC	Reliever Airport	Regional			X		
Twin City Airport	5J9	Loris, SC	General Aviation Airport	Other	X				
South Dakota									
Marv Skie-Lincoln County Airport	Y14	Tea, SD	General Aviation Airport	Local		X			
Tennessee									
Scott Municipal Airport	SCX	Oneida, TN	General Aviation Airport	Local	X				
Tri-Cities Regional Airport	TRI	Blountville, TN	Nonhub-PCS Airport	N/A			X		
Tullahoma Regional Airport	THA	Tullahoma, TN	General Aviation Airport	Local	X				
Texas									
Addison Airport	ADS	Addison, TX	Reliever Airport	National			X		
Bridgeport Municipal Airport	XBP	Bridgeport, TX	General Aviation Airport	Local	X				
David Wayne Hooks Memorial Airport	DWH	Houston, TX	Reliever Airport	Regional	X				
Fort Worth Alliance Airport	AFW	Fort Worth, TX	Reliever Airport	National			X	X	
Houston Southwest Airport	AXH	Houston, TX	Reliever Airport	Regional	X				
Lago Vista Tx - Rusty Allen Airport	RYW	Lago Vista, TX	General Aviation Airport	Local	X				
Lancaster Regional Airport	LNC	Lancaster, TX	Reliever Airport	Local	X				
Livingston Municipal Airport	OOR	Livingston, TX	General Aviation Airport	Local	X				
Post-Garza County Airport	5F1	Post, TX	General Aviation Airport	Other	X				
Rockwall Municipal Airport	F46	Rockwall, TX	General Aviation Airport	Local	X				
Rooke Field Airport	RFG	Refugio, TX	General Aviation Airport	Local	X				
West Houston Airport	IWS	Houston, TX	Reliever Airport	Other	X				

Airport Name	Airport Identifier	City, State	NPIAS Classification	General Aviation Airports: National Asset Classification	Type of TTF Activity			
					Residential	Commercial Aeronautical	Non Commercial Aeronautical	Non Aeronautical
Utah								
Ogden-Hinckley Airport	OGD	Ogden, UT	Reliever Airport	Regional	X			
Virginia								
Lonesome Pine Airport	LNP	Wise, VA	General Aviation Airport	Local	X			
Washington								
King County Intl Airport	BFI	Seattle, WA	Nonhub-PCS Airport	N/A			X	
Cashmere-Dryden Airport	8S2	Cashmere, WA	General Aviation Airport	Basic	X			
South Lewis County Airport	TDO	Toledo, WA	General Aviation Airport	Local	X			
Lopez Island Airport	S31	Lopez, WA	General Aviation Airport	Local	X			
Odessa Municipal Airport	43D	Odessa, WA	General Aviation Airport	Other	X			
Omak Airport	OMK	Omak, WA	General Aviation Airport	Basic	X			
Orcas Island Airport	ORS	Eastsound, WA	Non PCS Airport	Local	X			
Pru Field Airport	33S	Ritzville, WA	General Aviation Airport	Other	X			
Quillayute Airport	UIL	Quillayute, WA	General Aviation Airport	Basic	X			
Renton Municipal Airport	RNT	Renton, WA	Reliever Airport	Regional			X	
Snohomish County Airport	PAE	Everett, WA	Reliever Airport	National			X	
Vashon Municipal Airport	2S1	Vashon, WA	General Aviation Airport	Local	X			
Wisconsin								
Adams County Legion Field Airport	63C	Friendship (Adams), WI	General Aviation Airport	Local	X			
Ephraim-Gibraltar Airport	3D2	Ephraim, WI	General Aviation Airport	Other	X			
Lakeland Airport	ARV	Minocqua-Woodruff, WI	General Aviation Airport	Local	X			
Mauston-New Lisbon Union Airport	82C	New Lisbon, WI	General Aviation Airport	Other	X			
Wittman Regional Airport	OSH	Oshkosh, WI	General Aviation Airport	Regional	X			
Wyoming								
Afton Municipal Airport	AFO	Afton, WY	General Aviation Airport	Local	X			
Dubois Municipal Airport	DUB	Dubois, WY	General Aviation Airport	Basic	X			
Hunt Field Airport	LND	Lander, WY	General Aviation Airport	Local	X			

APPENDIX C: TTF OPERATION CASE STUDIES

RESIDENTIAL TTF ACTIVITIES

AIRPORT BACKGROUND

Independence State Airport – 7S5 (Airport) is a federally obligated airport located in the City of Independence, Oregon (City). In addition to serving the communities of Independence and Monmouth, the Airport hosts one of the largest residential airparks at a publicly owned airport in the U.S. The Airport is situated approximately one mile north of the City. The Airport was constructed in 1966 with funding provided by the Oregon DOT, Board of Aeronautics, and the FAA. The Airport is owned and operated by the Oregon Department of Aviation (ODA). FAA classifies the Airport as a General Aviation - Local Airport, which mostly supports the flying of piston aircraft for business and personal/recreational purposes. The Airport covers an area of 83 acres which contains one 3,142' by 60' paved runway (Runway 16/34).

There are approximately 288 single and multi-engine aircraft, 1 helicopter, and 5 ultra-light aircraft located on the Airport. This includes aircraft in the residential airpark and on-airport. In 2011, the Airport had approximately 34,000 annual operations. There are several on-airport commercial tenants including two FBOs – Nutsch Aviation and Independence Aviation. The FBOs offer Avgas fuel, pilot instruction, aircraft rental, and aircraft storage. There is also a restaurant located at the Airport, the Starduster Café. In 2007, the Airport's economic impact included 87 jobs, \$1.8 million in wages, and \$5.4 million in business sales.

TTF PROPERTY BACKGROUND

The residential airpark adjacent to the Airport was initially developed by retired ODA employees in the early 1970s. Today, there are about 200 single-family residences within the residential airpark, each having TTF access to the Airport via one of several taxilanes/taxiways leading directly to hangars attached to single-family residences. Residences continue to be constructed within the airpark. All residences have attached hangars, as required by the City of Independence zoning ordinance.

The design of the airpark is unique in that vehicle traffic enters at the front of the residence via public roads and only aircraft can access the taxiways located at the back of the residence, ensuring that vehicles and aircraft do not mix. There are 10 taxilanes/taxiways in the airpark located behind residences that feed into 5 TTF access taxilanes/taxiways that then connect to the parallel taxiway adjacent to Runway 16/34. No TTF access gates are utilized.

Each residence is a member of one of two HOAs - the Independence Airpark HOA or the Independence North Park Annex Addition HOA. These HOAs, not the individual residents, have TTF agreements with the airport sponsor. One HOA, Independence Airpark, received its first access permit in 1974. The original term of the TTF agreement was for 30-years, which expired in 2004, at which point, a new TTF agreement was granted by ODA that now expires in 2034. The Independence North Park Annex Airpark was permitted access in the early 1990s and 10-year renewal options were granted.

ASSESSMENT OF TTF OPERATIONS

The State of Oregon and ODA has supported the development of the residential airpark at the Airport over the last 40 years. While the FAA has had concerns regarding residential TTF activities, ODA, the City, the HOAs, and airpark residents have worked closely with the FAA to ensure that the airpark is operating safely and generating TTF access fees while the Airport is still meeting all of its obligations. The TTF access fee is the same as the on-airport tiedown fee. The State Aviation Director has the authority to change the fees based on CPI and fair market value every five years. Currently, the revenues generated by TTF access fees are greater than all on-airport revenues. Additionally the aircraft located within the airpark helps support several businesses located on-airport including two FBOs and

a restaurant. The FAA Seattle Airport District Office has reviewed the TTF agreements and found them in compliance with the airport sponsor's obligations and the FAA policies and guidance.

The use of the land and buildings in the airpark must be in compliance with the base zoning district established by the City Zoning Map, and is further defined by Subchapter 48 of the City Development Code which defines the Residential Single-Family Airpark Overlay Zone. The purpose of the overlay zone is to *"promote the public health and safety in the vicinity of airfields by minimizing exposure to crash hazards and high noise levels generated by air field operations by encouraging future development which is compatible with the continued operation of airfields, and established airpark development."* This zoning ordinance provides guidelines for height limitations, aviation easements, notification of buyers, and lot size and density, and requires that all residences have attached hangars. Polk County issues the building permits for residences in the airpark based on approval from the City. All entities work cooperatively to address issues regarding water drainage and utilities as well.

ODA noted that the airpark positively impacts the community by providing a higher tax base. It was noted that 75 percent of the City property taxes come from the airpark, since the residences are typically large (3,000-6,000 square feet) and include attached hangars. The airpark is considered to be one of the most desirable neighborhoods in the City. The residences in the airpark rarely are put up for sale and when they do, they move quickly.

Although a Residential TTF (RTTF) Access Plan has not yet been developed for the Airport, as recently required by the FAA, ODA plans to develop the RTTF Access Plan in conjunction with the next master plan. All TTF access points are identified on the current ALP.

STRUCTURE OF TTF OPERATIONS

ODA has TTF agreements with the two HOAs located in the airpark – Independence Airpark HOA and Independence North Airpark Annex Addition HOA. The TTF agreements grant the HOAs and the associated residents' non-exclusive rights of TTF access to the Airport. The agreement stipulates that the ODA has the power to close or relocate the point of ingress/egress if the TTF access points pose a risk to the safety, utility, and efficiency of the Airport.

Several key terms and conditions included in the agreement are as follows:

- **Initial Term:** 10 years, with option to renew for additional 10-year terms
- **Payment:** Each HOA must pay TTF access fees in the amount of \$15 per month (\$180 per year) for each developed residential lot whether or not the TTF access is being utilized or not
- **Posting Point of Ingress/Egress:** HOAs must place signs on property to control points of ingress/egress
- **Prohibited Uses:** Commercial operations, storage of non-aviation personal property on the Airport; use of vehicles, bicycles, pedestrians, animals, etc., on the Airport or through the TTF access points; transport of dangerous articles or magnetized material
- **Assignment:**
 - The TTF agreement cannot be assigned.
 - However, when ownership of an HOA residence changes, transfer of interest is acceptable.
- **Construction/Alterations:** Part 77 must be followed and Form 7460-1 must be filed when appropriate
- **TTF Access:**
 - Only aircraft are permitted on the Airport (e.g., runway, taxiway, etc.)
 - No vehicle parking or TTF access permitted

- **Maintenance:** HOA must maintain all TTF access points in safe condition at all times as well as maintain adjacent property in reasonable fashion
- **Hazardous Substances:** HOA and membership shall not store, dispose of, or release hazardous substances on the Airport
- **Organized Public Activities:** HOA must request written approval from ODA before organized public activity using airspace or aircraft operational areas shall occur
- **Indemnity:** HOA holds ODA harmless from claim, demand, cost, expense, or suit against or suffered by ODA based on HOA or membership actions related to TTF access or the agreement
- **Responsible Party:** HOA can enforce terms of agreement according to provisions in CC&Rs
- **Subordination:** The provisions of the agreement are subordinate to existing or future agreements between ODA and the FAA
- **ODA's Right to Develop the Airport:** ODA reserves the right to alter, develop, or improve the Airport to accommodate demand or safety

MANAGEMENT OF TTF OPERATIONS

While ODA has a TTF agreement with the HOAs, each of the HOAs at the Airport in turn has adopted CC&Rs as well as bylaws that govern the operations of the association and its residents. The State of Oregon has approval authority over residential airpark CC&Rs. Certain provisions of the CC&Rs mirror the terms and conditions of the TTF agreement:

The airpark homeowners take safety and security at the Airport very seriously and residents closely follow the airport policies, standards, rules, and regulations of the ODA. Although the Airport is not fenced, residents maintain a level of vigilance to ensure appropriate operations are occurring at the Airport.

Policies are enforced by ODA first with a verbal warning to the HOA, not the individual residence. The HOA is liable for enforcing the policies, standards, rules, and regulations and the collection of TTF access fees. It is up to the HOA to ensure all policies are understood and obeyed by residents. If an issue continues after verbal warning, a letter is sent to the HOA ordering compliance. ODA has the ability to terminate the TTF agreement with the HOA if breach of agreement continues. A termination of the agreement would mean that all residences that fall under the HOA would no longer have TTF access to the Airport. The relationship between ODA and the HOAs is extremely cooperative and there have been no issues with breach of agreement in the past.

CONCLUSIONS AND LESSONS LEARNED

The residential TTF activities at the Airport are considered successful because they represent a cooperative approach between the State, Polk County, City of Independence, the HOAs, residents, on-airport businesses, and other users of the Airport to ensure the Airport operates in a safe, secure, compatible, and efficient manner. The Independence State Airport Support Group is an advisory group to ODA which includes local airport user groups and interested persons to help in the planning, developing, operating, and managing of the Airport.

COMMERCIAL AERONAUTICAL TTF ACTIVITIES

AIRPORT BACKGROUND

St. Louis Regional Airport – ALN (Airport) is a federally obligated airport located in Alton, Illinois. The Airport, which is classified in the NPIAS as a Reliever airport, is owned and operated by the St. Louis Regional Airport Authority (Authority). There are approximately 100 general aviation aircraft based at the Airport, which encompasses approximately 2,250 acres upon which two runways (8,099' long by 150' wide and 6,500' long by 100' wide) are situated.

The Airport serves general aviation customers from the recreational/pleasure, business/corporate, and industrial segments of the market as well as government and military customers. There are approximately 36,539 operations at the Airport of which 33,945 (or 93%) are general aviation. This case study is unique in as much as the TTF entity, West Star Aviation (West Star), is also the on-airport FBO. In addition to West Star, there is one non-commercial tenant, the Civil Air Patrol 286th Composite Squadron, located at the Airport.

TTF PROPERTY BACKGROUND

In the late 1970s, American Electronic Laboratories (which later merged with AEL Defense Corporation or AEL in 1991) purchased the TTF property from the Authority which consists of a 20.22 acre parcel of land located directly parallel to and west of the southern portion of runway 17/35. AEL constructed approximately 6.8 acres of facilities – primarily hangar, office, and shop – on the TTF property. It is significant to note that the hangar was constructed immediately adjacent to the Airport's property line thereby providing direct access to the Airport's apron area, which limits the ability of the Airport to limit TTF access to the Airport.

AEL had a military aircraft refurbishment contract to convert F-106 to drones, but the company discontinued operations in 1987. Following AEL, the TTF property was purchased by Bi-State Properties which leased the property to several air cargo companies until 2001 when Completion Air began refurbishing B-767s and Boeing Business Jets on the TTF property. In 2002, West Star bought Premier Air Center (the on-airport FBO) and leased the TTF property from Bi-State Properties. In the 2004-2005 timeframe, West Star bought the TTF property from Bi-State Properties. Prior to West Star purchasing the TTF property, the Authority wanted to purchase the property back, but could not secure 10 million dollars in AIP funding to do so. The current TTF agreement contains a provision that provides the opportunity for the Authority to acquire the TTF property should AIP funding become available.

West Star provides airframe maintenance and repair, engine maintenance and repair, major modifications, avionics maintenance and repair (and sales), interior refurbishment, paint, parts, and accessories from the TTF property. West Star serves a wide range of aircraft and focuses primarily on larger jets. The company's economic impact (direct and indirect) on the Airport and the community is widely recognized.

ASSESSMENT OF TTF OPERATIONS

With regard to the TTF property, the Authority required West Star to pay for security improvements such as converting a manual vehicle TTF access gate to an electric gate. It is estimated that this conversion cost approximately \$60,000. Commencing January 1, 2012 and continuing through December 31, 2016, West Star is required to pay the Authority an annual TTF access fee of \$99,897. The access fee, which is based on the market value of the TTF property, is scheduled to be adjusted on January 1, 2016 based on the change in the Consumer Price Index (CPI). According to airport management, the TTF access fee exceeds all Authority operating expenses and capital expenditures associated with the TTF operation.

All buildings on the TTF property comply with Part 77 and all other required setbacks. West Star is invited to participate in the creation, maintenance, and updating of the Airport's snow removal, wildlife, emergency, and land use plans. As landside and airside TTF access had already been provided to the TTF property, the Authority did not incur any costs/expenses from a design and development perspective. With the Authority having no risk or development requirements, the TTF entity having demonstrated its ability to meet the required minimum standards and pay the TTF access fee, and TTF improvements that already compiled with Part 77 and other requirements, West Star was granted permission by the Authority to engage in commercial aeronautical TTF activities and have TTF access rights.

STRUCTURE OF TTF OPERATIONS

The Authority uses an Airfield Access and Use Permit as the TTF agreement to structure TTF operations. The term of the agreement began on September 5, 2005 and is scheduled to expire on December 31, 2021. The term of the agreement could expire sooner, provided the Authority receives AIP funding from the FAA to acquire the TTF property. The agreement grants the TTF entity the right of TTF access and use of the airfield airside infrastructure and Airport roads. It does not, however, create or convey any interest in real property of the Airport to the TTF entity. In addition to requiring that the TTF entity comply with regulatory measures, the agreement requires that the TTF entity repair any damages to Airport property – other than ordinary wear and tear. Any damages other than ordinary wear and tear that occur must be promptly repaired or replaced at the Permittee's sole cost and expense. Under the agreement, the Authority maintains the right to terminate the agreement at any time if the TTF entity does not uphold the provisions of the agreement. The Authority also maintains the right to terminate the agreement if the Permittee files for bankruptcy protection or if a governmental authority, board, agency or officer having jurisdiction takes possession or control of the property for the benefit of creditors. The Authority may also terminate the agreement if the Permittee voluntarily abandons or discontinues operations for a continuous period of 90 days except where the abandonment is caused by natural disaster or a calamity beyond the Permittee's control.

Along with requiring compliance with regulatory measures, the agreement also requires the Permittee to commence and diligently pursue curing the applicable violation to the reasonable satisfaction of the Authority, FAA, or TSA – as appropriate within 72 hours of receiving notice of the violation. It is also important to note that along with the termination and use requirements, the agreement also contains personal conduct requirements which could lead to termination of the agreement if not followed. Personal conduct requirements that must be followed include: the Permittee shall control the conduct and demeanor of its agents and employees and the Permittee must take corrective action upon receipt of an objection from the Authority. The Permittee must also require employees to wear suitable attire and to wear or carry badges or other means of identification and ensure that it will not perform any acts that may damage Authority property beyond normal wear and tear.

The agreement explicitly identifies the Permittee's Airport TTF access points and restrictions. A map of the Airport is included in the agreement that highlights the TTF property and taxiway to gain access to the airfield. The agreement also identifies the road to use for gaining vehicular access to the Permittee's TTF property. The agreement prohibits the Permittee from granting or selling access rights through the TTF property to third parties to gain access to the Airport's airside infrastructure.

MANAGEMENT OF TTF OPERATIONS

The Authority uses an Airfield Access and Use Permit as the TTF agreement to manage TTF operations as well. The agreement contains provisions addressing personal conduct, repairs to Authority property, subordination, compliance with the Authority's rules and regulations and minimum standards, and TTF access points and restrictions, annual use and access fees with associated adjustment terms and conditions, assignment prohibitions, liabilities, indemnities and insurance, and the Authority's right of termination.

The agreement also includes as an appendix item the CGL. Inclusion of the CGL in the agreement is aimed to explain and answer any questions the Permittee may have about the Authority's obligations in allowing TTF operations. The sections of Order 5190.6B that are applicable to TTF operations are also included as an appendix item. Including the appropriate sections of Order 5190.6B supplements the agreement by showing the Permittee that certain TTF requirements are dictated by the FAA and not solely by the Authority.

By way of the agreement, the Authority seeks to achieve economic parity – between TTF entities and on-airport operators – by requiring that West Star pay an access fee of \$99,897 which is based on the market value of the TTF property. This fee is payable in quarterly installments of \$24,974.25. The Authority accounts for fluctuations in the market by requiring the access fee be reassessed according to the December 2015 CPI. The reassessed access fee will be computed by multiplying the current access fee payable for 2015 by a fraction with the numerator being the CPI published for December 2015 and the denominator being the CPI published for January 2012. The computed fee adjustment will be effective January 1, 2016 and will continue until the end of the term of the agreement. The Authority seeks to address safety and security by requiring that the TTF entity comply with the Airport's rules and regulations.

CONCLUSIONS AND LESSONS LEARNED

TTF operations at ALN have been successful for a variety of reasons. With only one TTF entity, the Authority has been able to use a single TTF agreement and tailor it specifically for West Star's TTF operation as opposed to trying to use a "one-size-fits-all" approach for multiple entities. There are no on-airport commercial operators competing with West Star. This eliminates any possible contention, perceived or real, that a TTF entity may have a competitive advantage over on-airport entities. Additionally, West Star is an established company that has demonstrated its ability to meet its financial obligations and as a result, the Authority has some "peace of mind" regarding the financial capacity of the company.

Under the agreement, the Authority can acquire the TTF property if AIP funding can be secured for doing so. The Authority manages the TTF operation through an agreement which requires compliance with regulatory measures, airport minimum standards, and rules and regulations. As such, the Authority has the ability to modify its primary management and compliance documents as the situation and/or circumstances change at the Airport, in the market, and/or within the industry. By granting TTF access to West Star, the Authority has generated additional revenue, the community has realized significant economic benefits, and Airport customers have gained access to aircraft maintenance, repair and overhaul services which might not be available at the Airport otherwise.

NON-COMMERCIAL AERONAUTICAL TTF ACTIVITIES

AIRPORT BACKGROUND

Scottsdale Airport – SDL (Airport) is a federally obligated airport located in Scottsdale, Arizona and is owned and operated by the City of Scottsdale (City). The Airport encompasses approximately 335 acres with one non-precision instrument runway (8,249' long by 100' wide). Approximately 400 aircraft are based at the Airport and on the adjacent industrial airpark, the Scottsdale Airpark (Airpark).

The Airport is classified by the FAA as a public use, reliever airport which serves both the recreational and business/corporate general aviation markets. It is served by a U.S. Customs facility with prior permission required to use Customs services. The City's Aviation Department is the designated airport sponsor who owns and operates the Airport. The Airport has two FBOs, and several facilities which cater to aircraft storage on airport property. The Airport supports numerous SASOs such as aircraft charter, flight training, aircraft rental, and several types of specialized aeronautical services such as aircraft management, aircraft washing, avionics sales/repairs, aircraft maintenance, aircraft sales and aircraft catering.

Based aircraft vary on a monthly basis, especially as Arizona has seasonal activity with peak periods during the fall and late winter months. Based aircraft for April 2013 were 114 jet aircraft, 44 twin aircraft, 210 single-engine aircraft and 15 helicopters. The majority of jet aircraft are based in the Airpark. During the winter/spring, the Airport accommodates a significant number of transient jets which frequent the events that draw a national audience, such as the many local collector car auctions in January and the Phoenix Open golf tournament. In April 2013 monthly aircraft operations totaled 13,905, with 3,406 of those being IFR operations.

TTF PROPERTY BACKGROUND

The Airpark was originally envisioned to accommodate only non-commercial TTF operations. In the late 1960s the vision of a “clean” light-industrial airpark was just evolving. It was believed that businesses would establish offices or light manufacturing/warehouse facilities in the Airpark, and aircraft storage would only occur in conjunction with an otherwise permitted non-aeronautical TTF activity.

Problems occurred when hangars would be built with “excess” capacity and the hangar owner wished to lease out the “excess” space to offset costs. Other early operational problems occurred when hangar facilities were developed that opened directly onto the taxilane/taxiway, essentially guaranteeing that “staging” aircraft would block free access to the taxilane/taxiway. Site design requirements were eventually instituted to require staging areas between hangars and the taxilane/taxiway to help minimize taxilane blockages.

Some early facilities were also developed without attached office space, with the assumption that the required “otherwise permitted non-aeronautical business use” office space would be accommodated by other office or factory space located somewhere within the City of Scottsdale. Therefore, design requirements were subsequently established that all facilities with hangar space must also have a minimum of at least 1,000 square foot of office space attributed to each hangar that could accommodate the requirement for the “otherwise permitted non-aeronautical use.”

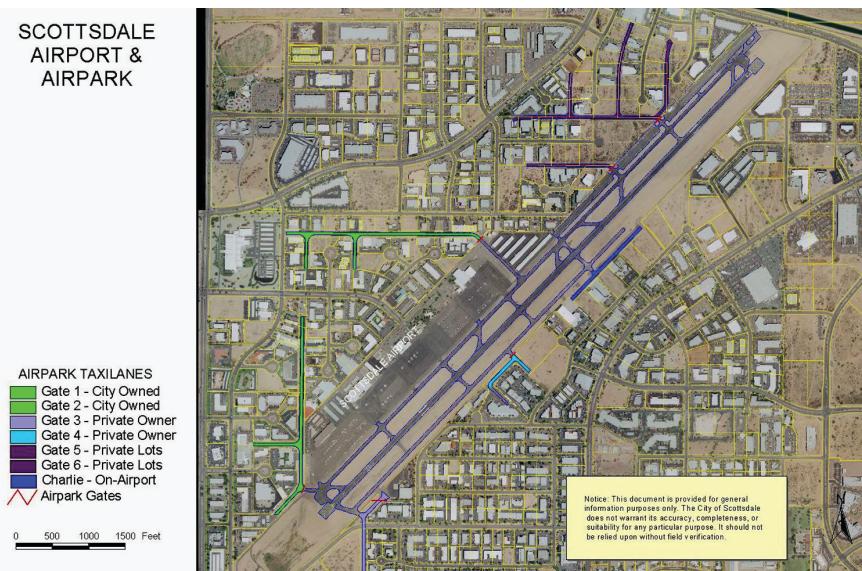
As the economy ebbed and flowed and the need for warehouse facilities increased, aircraft hangars that once accommodated only aircraft storage became manufacturing or warehouse facilities. Some generated a substantial number of daily deliveries with large trucks which because of the lack of staging areas would occur in the taxilane – blocking free flow of aircraft traffic. One such facility even became an assembly facility with manual laborers who on breaks would routinely stage “pickup” soccer games on the taxilane and would invariably hold up aircraft movements.

The Airpark consists of privately owned commercial and industrial parcels, many of which have TTF access to the Airport through seven TTF access points. TTF access is controlled by six access points with large rolling access gates, and two non-gated direct access points. A wide variety of non-commercial and commercial aeronautical and non-aeronautical TTF activities are currently permitted in the Airpark.

As of April 2013, 59 permits have been issued at the Airport to govern commercial aeronautical TTF activities within the Airpark, including aircraft and helicopter charter, aircraft and helicopter management, aircraft and helicopter sales, helicopter flight training, helicopter maintenance, and aircraft storage leasing. Additionally permits have been issued to govern non-commercial aeronautical TTF activities.

Approximately 119 parcels are adjacent to Airpark taxilanes and 7 parcels have non-gated direct access, all of which can accommodate permitted TTF activities. The numbers of parcels with TTF access change as parcels are consolidated from smaller parcels, and as parcels are sub-divided into condominium hangars with fee simple ownership of hangars and communal ownership of shared staging areas. Of the total of 126 parcels that could accommodate TTF activity, there are approximately 110 individual or common use hangars in the Airpark on 55 lots constructed with hangar facilities. The remaining lots are either occupied by buildings with no hangar capacity to store aircraft or are undeveloped.

At Scottsdale Airpark there is an example of just about every possible taxiway ownership type and access configuration (gated, non-gated, and both). Two of the original taxilanes accessed through Gates 1 and 2 are owned and maintained by the City of Scottsdale, but are not included in the Scottsdale Airport property inventory. These taxilanes essentially are in the City's "alleyway" inventory for ownership and maintenance, except these serve aircraft. The property ownership boundary for these two taxilanes is the taxilane object free area. The taxilanes accessed through Gates 4, 5 and 6 are privately owned and maintained by a different property owner association. The taxiway centerline is the property ownership boundary in most instances for these Airpark taxilanes. The taxilane serving Gate 3 actually crosses a City-street (Redfield Road), with traffic and safety controls through a standard traffic signal that one would find at a street intersection, although aircraft are rarely housed at the hangars located south of Redfield Road. The taxilanes serving this area are a mixture of privately owned property with cross-access easements and the taxilane parcel still owned by the 7th Day Adventists Church but rarely used. The hangars with non-gated direct access are along Taxiway B and Taxiway C. The Taxiway C properties obtained direct access by constructing and then donating Taxiway C to the airport. The airport now maintains Taxiway C.



Landside access to the Airpark taxilanes/taxiways is limited by facility design and operational regulations. Vehicle gates must be closed when not actively in use and architectural barriers are required to prevent inadvertent access to the taxilanes/taxiways which could potentially create safety issues for aircraft.

As new facilities are designed and permitted, only site plans that allow access directly from a landside parking lot to an aircraft hangar or staging area located outside of the taxilane object fee area are permitted. However, there are several older facilities that were permitted with poor vehicle access to the “hangar side” of the taxilane/taxiway, or poor design that required aircraft to launch or recover (e.g., “stage”) in the taxilane/taxiway, thereby effectively blocking other traffic. Appropriate facility design is a key element for successfully and safely permitting hangar facilities that could eventually accommodate significant TTF activity.

ASSESSMENT OF TTF OPERATIONS

The process by which new TTF operations are approved are outlined in the various airport sponsor ordinances and airport management and compliance documents of the Airport. Applicants must first complete an application and follow a detailed checklist provided by the airport management. The application is submitted to airport management with appropriate supporting information (i.e., required proof of insurance, proof of aircraft ownership/control, proof of hangar lease, etc.) for review by airport management and staff and approval by the Airport Commission.

Some limited commercial aeronautical TTF activities are permitted in the Airpark for aircraft maintenance (including that of transient aircraft maintenance) as a pre-existing “grandfathered” activity due to previous issuance of a Conditional Use Permit (CUP) by City Council. However, regardless of any “grandfathered” status due to CUP issuance or other historic approvals for TTF activity, all current regulations and restrictions must also be obeyed.

One of the more noteworthy elements of the Airport’s TTF operations is how the rules governing TTF operations have changed and evolved over its nearly 50 year history. Starting with purely non-commercial aeronautical TTF activities in 1966, in response to increasing demand for commercial aeronautical activities and limited development opportunities on-airport, commercial aeronautical TTF activities were permitted to expand into the Airpark. While often contentious and not easily resolved, a comprehensive public process engaged both airport tenants and TTF entities to develop the current regulatory framework throughout the late 1990s. While significantly expanding TTF activities in the Airpark, the regulatory framework balanced the need for maintaining compliance with federal obligations and FAA policies and guidance through imposing appropriate fees on TTF activities and TTF access.

The development of an equitable fee structure for TTF activities and access was one of the most contentious issues and eventually a compromise was reached with on-airport FBOs, TTF SASOs, and non-commercial aeronautical TTF entities. The stated goal of the new fee structure was to not create an economic incentive detrimental to the Airport which would cause aeronautical activities to “flock” to the Airpark, leaving the Airport without sufficient operating revenue and limited ability to be financially self-sustaining.

For approval of proposed development projects adjacent to the Airpark taxilanes, City regulations in Chapter 5 and other City Code govern the review and approval processes. The Airport Vicinity Development Guidelines and Checklist Long Form Packet describe the applicable criteria and design best practices required for City approval of all structures adjacent to the Airpark taxilanes. It is through this process that the airport sponsor meets federal obligations for ensuring compatible land use, protection of the airport operational capacity, compliance with the airport master plan, protection of NAVAIDs, etc.

It is not uncommon for structures next to Airpark taxilanes to be developed with no accommodation for a hangar to facilitate future TTF activity, or for development of facilities that can act as warehouse and/or aircraft hangar purposes. Additionally, the Airpark has been in existence for nearly 50 years and redevelopment of parcels is also occurring. The development of “condominium” style hangar facilities has been a popular development in recent years as many TTF entities would prefer to not share hangar space to better protect aircraft from damage.

STRUCTURE OF TTF OPERATIONS

The current regulatory framework at the Airport and Airpark is primarily governed through Chapter 5 – Aviation, of the Scottsdale City Code, and supported through other applicable codes for development review and approval. Chapter 5 authorizes the promulgation of rules and regulations to govern operational issues, minimum standards to govern commercial aeronautical activity, permits, fees and a layered approach to regulations for safety, business activity, development requirements and other best practices and guidelines for other issues such as environmental protection. The Scottsdale Airport/Airpark regulatory document hierarchy can be summarized as follows.

- Chapter Five - Aviation Code
- Airport Minimum Operating Standards
- Airport Rules and Regulations
- Airpark Minimum Operating Standards
- Airpark Rules and Regulations
- Airport and Airpark Rates and Fees Schedule

Permits for TTF access do not expire unless otherwise cancelled or revoked and will continue to be in effect if the operator is in compliance with Chapter 5, and fee payment is in good standing. Chapter 5 defines criteria for non-approval of a permit application, and regulation enforcement procedures using civil citations and other civil and regulatory penalties for failure to comply. Extreme violations and repeated violations can result in an immediate denial of use for health and safety violations, along with grounds and procedures for permit revocation.

Fees for TTF activities are defined in both the official Airport/Airpark Rates and Fee Schedule and the Airpark Minimum Operating Standards for commercial aeronautical activity with TTF operations. The basis for instituting a fee structure incorporated an element of cost recovery for wear and tear on the airfield pavements, and the cost of ongoing maintenance and capital improvements on the Airpark access gates controlling TTF access and airport-owned taxiways used exclusively by TTF entities, and airport administrative costs to administer the various airport programs. This overall cost for the impact of TTF activity was then loosely tied back to fuel sales for TTF operations, annual and monthly activity fees for TTF commercial aeronautical activity to reach an acceptable level of cost recovery for the airport, on-airport commercial operators (FBOs and other commercial aeronautical operators located on airport property) and fees for the TTF operators and commercial aeronautical business now authorized to conduct business in the Airpark. This is why fees for aircraft are higher based on MTOW and fees for activity involving helicopters are relatively small (since they don't typically use the runway/taxiway system and aircraft access gates).

In addition to aeronautical permit fees, TTF operators engaged in commercial aeronautical activities must also obtain proof of insurance and maintain such coverage as established by the Minimum Operating Standards for the TTF activity. TTF operators storing and operating aircraft off airport property may be required to meet certain insurance coverage if renting storage space in an Airpark hangar.

MANAGEMENT OF TTF OPERATIONS

The City's regulatory approaches and permitted activities have changed significantly over the years and currently involve both operational regulations and to a lesser degree limited "grandfathered" zoning regulations to permit and regulate TTF operations. The regulatory structure has been modified several times since 1968. As the airport's TTF operations have evolved over the years, significant stakeholder involvement has occurred from both on-airport commercial operators and TTF property owners and related entities.

Aircraft operators granted TTF access through a gated access point are issued a Gate Access Device which is registered to that particular operator and aircraft. Moving aircraft access devices to other aircraft or allowing use of the device by an unapproved purpose/person is a violation of the regulations. In the early days of the Airport/Airpark, simple garage door opener devices were issued and any device could be used on any access gate. Additionally as the opener devices were essentially common “garage door” openers and easily obtained through any number of vendors, unapproved devices were prevalent and the “coded” settings were commonly known among the Airport/Airpark operators. With the post 911 security upgrades at airports across the country, the Airpark access devices were also upgraded to have discrete codes for each access device and a centralized control system to better monitor access gate activity. This technology upgrade has significantly curtailed improper use of the Airpark access gates by unapproved aircraft (both based and transient).

Accommodating “visiting” aircraft in the Airpark was poorly regulated in the past as no regulations were expressly written to control such activity. Under the new regulatory framework, regulations were developed to permit limited transient visiting aircraft with TTF activity only with submittal of a visiting aircraft form and prior permission of the Airport.

The various fee structures and operational restrictions defined above are continually being adjusted to ensure economic parity between on-airport operations and off-airport TTF activity in the Airpark to benefit the self-sustainability of the Airport and ensure compliance with federal obligations.

CONCLUSIONS AND LESSONS LEARNED

Due to limited on-airport development opportunities and economic (and political) pressures, the City allowed commercial aeronautical TTF activities to take place in the Airpark, an expansion of the permission for TTF aircraft storage if not engaged in a commercial aeronautical TTF activity. Additionally, from the start of the Airpark there has been pressure to allow non-commercial TTF entities to sublease excess hangar space, essentially permitting a commercial aeronautical activity. In the case of Scottsdale Airport and other similar “landlocked” airports, permitting TTF activities may provide a desired additional revenue source to support the airport maintenance and capital improvement program, providing the many “hazards” to permitting TTF activity can be appropriately managed.

In the case of Scottsdale, the initial regulatory approach for permitting only non-commercial TTF activity through zoning and development regulations was woefully inadequate to respond to the revolution in the aviation industry caused by the proliferation of aircraft management, charter, and timeshare/fractional ownership. Then the ability for TTF entities at the Scottsdale Airpark to self-fuel and the on-airport FBOs became very concerned that what was once a captive market for fueling of transient and based aircraft could easily taper off as more TTF operators began competing for the hangar rental and fuel sales market without meeting equivalent minimum standards.

From the customer perspective at Scottsdale, very few on-airport facilities provided the single use “executive” hangar space they desired, and that very few on-airport aircraft storage locations could match. The TTF operators were willing to pay higher rents and higher TTF access fees to the airport, especially if it involved self-fueling with a lower per gallon cost than that from the on-airport FBO.

By permitting TTF activities, the airport operator is essentially creating two airports: one they can manage more effectively due to the fact they own the land and can better control business activity through leases or permits. Airport operators do not have the same rights of entry on property they don’t control and far less effective legal remedies on privately held property where improper commercial aeronautical activity may or may not be occurring. However with appropriate staff support, support from the on-airport operators and TTF operators, and the appropriate mitigating controls, TTF activity can be effectively managed.

NON-AERONAUTICAL TTF OPERATIONS

AIRPORT BACKGROUND

Savannah/Hilton Head International Airport – SAV (Airport) is a federally obligated airport located in Savannah, Georgia. The Airport, which is classified in the NPIAS as a small hub primary commercial service airport, is owned and operated by the Savannah Airport Commission (Commission). There are approximately 125 based aircraft consisting of 79 single-engine, 19 multi-engine, 11 jet, 8 rotary, and 8 military aircraft. The Airport encompasses approximately 3,650 acres upon which two runways (9,351' long by 150' wide and 7,002' long by 150' wide) are situated. The Airport operational statistics for 2012 included enplanements/deplanements of 814,496/797,504; aircraft operations of 90,326; cargo (tons) of 7,595; and employment (direct) of 20,383 with an annual payroll of \$869,501,600.

The Airport serves a variety of aviation users including general aviation, commercial air service (passenger and cargo), military, and aircraft manufacturing. General aviation is served by two FBOS – Signature Flight Support and Sheltair, both providing fueling services, location based services, and aircraft storage. In addition to the two FBOs, the Airport has one SASO – Savannah Aviation, providing aircraft sales, aircraft rental, and flight training. Passenger commercial air service is provided by American Airlines, Delta, JetBlue, United, and US Airways. Cargo commercial air service is provided by Delta Air Lines, US Airways, UPS (through Air Now), DHL, and FedEx. Military use of the Airport consists of the 165th Airlift Wing, Georgia Air National Guard, which includes the 117th Air Control Squadron, 165th Air Support Operations Squadron, and the Combat Readiness Training Center. The final primary user is Gulfstream Aerospace, an aircraft manufacturer and subject of this case study.

TTF PROPERTY BACKGROUND

In 1967, the Commission sold 110 acres of land in the northeast corner of the Airport to Grumman Aircraft Engineering Company (now known as Gulfstream Aerospace) for \$484,000. The land was used for the development of the company's civilian aircraft manufacturing facility, previously located in Bethpage, New York alongside the company's military aircraft production. Shortly after the completion of the \$7.5 million civilian aircraft manufacturing plant for the Gulfstream II aircraft in June 1967, the workforce grew from 100 to over 1,700 employees within just a few short years. Gulfstream Aerospace now employs more than 5,000 employees on the TTF property.

In addition to the TTF property owned by Gulfstream Aerospace, the company has leased over 300 additional acres of on-airport land and has invested tens of millions of dollars into on-airport infrastructure and improvements to expand the company's manufacturing; maintenance, repair, and overhaul (MRO); and completion capabilities. In 2000, the company leased approximately 81 acres of on-airport land in the southeast corner of the Airport to develop a \$5.5 million aircraft refurbishment and completions support facility that now employs approximately 1,500 employees. In 2007, Gulfstream leased approximately 77 acres of on-airport land in the southwest corner of the Airport to develop a service center that consisted of 330,951 square feet of facilities that now employ approximately 2,000 employees. Later in 2008, Gulfstream announced construction of a second 348,722 square feet service center in the southwest corner of the Airport. Recently, Gulfstream leased 159 acres of on-airport land in the northwest corner of the Airport as part of the company's \$500 million expansion project on and off the airport that will add more than 1,000 employees. Today, Gulfstream Aerospace employs over 8,500 employees on and off the airport.

Gulfstream also has a lease with FlightSafety International for land on the TTF property for a flight training facility for Gulfstream's customers. This facility alone generates approximately 50,000 annual room nights at hotels located on-airport and an equal number of car rental days.

ASSESSMENT OF TTF OPERATIONS

From Gulfstream's perspective, acquiring the land at the Airport and relocating the civilian aircraft manufacturing to the Airport was driven by the available supply of skilled labor, an established airfield adjacent to the manufacturing plant, and sufficient acreage for expansion. Additionally, the Airport's location provided suitable transportation facilities for heavy equipment and machinery and favorable weather for year-round flight testing and training. Further, due to the significant investment in manufacturing facilities, it was/is the policy of the company to own the land associated with manufacturing facilities versus leasing land for maintenance, repair, and overhaul facilities.

From the Commission's perspective, the opportunity to attract jobs and investment associated with the company's civil aircraft production was the primary driver in selling airport land to Grumman Aircraft Engineering Company and creating the TTF operation. At the time of the land sale, there was no other significant development on the airport or major employer. This was an opportunity to jump start growth at the Airport and in the community.

While Gulfstream was desirous of purchasing additional land for the development of the service and completion centers (that were ultimately developed on leased on-airport land), due to federal obligations associated with the sale of airport land for aeronautical purposes, the Commission did not honor the request and instead was able to generate significant revenues for the Airport from leasing on-airport land to Gulfstream.

STRUCTURE OF TTF OPERATIONS

Gulfstream has deeded access to the Airport into perpetuity and does not pay a specific TTF access fee. In the alternative, Gulfstream pays a fuel flowage fee for all fuel delivered on the TTF property. Recognizing the significant traffic impact by company employees and customers, Gulfstream has worked cooperatively with the Commission on providing substantial funding for landside improvements that benefit Gulfstream TTF property and on-airport leased property.

MANAGEMENT OF TTF OPERATIONS

Airport, Gulfstream management, and the TSA regularly communicate and address any ongoing safety or security issues associated with the TTF operations. Most recently, due to increased activity levels on the TTF property, there has been a higher rate of incursions into the Airport's movement area by people and vehicles associated with the TTF property and TTF activities. Gulfstream installed a fence separating the TTF property and Airport property except for the single 200 foot taxiway that provides TTF access.

Since Gulfstream also has significant commercial aeronautical activities on-airport and is contractually bound within the lease agreements to comply with the Airport's primary management and compliance tools (e.g., minimum standards, rules and regulations, etc.), Airport management and staff are able to enforce the Airport's policies, standards, rules, and regulations on Gulfstream's activities.

CONCLUSIONS AND LESSONS LEARNED

The Gulfstream TTF operation has been economically and financially beneficial for the Airport and the community. By initially allowing TTF operations, Gulfstream has expanded the company's operations onto the Airport and increased employment significantly. Since 2006, Gulfstream has invested over \$975 million on and off the Airport and created 3,200 new jobs. Additionally, Gulfstream's TTF activities have supported the development and expansion of commercial air carrier service, on-airport hotels, car rental service, and the leasing of other land and improvements to third party companies that support Gulfstream with goods and services.

GOVERNMENTAL/MILITARY TTF OPERATIONS

AIRPORT BACKGROUND

Cherry Capital Airport (Airport), a federally obligated airport located in Traverse City, Michigan, is owned and operated by the Northwestern Regional Airport Commission (Commission). The Grand Traverse region is the world's largest producer of tart cherries, with over three million tart cherry trees within the area's commercial orchards – hence the Airport's name, the Cherry Capital Airport.

The Airport has three TTF operations; one with the United States Coast Guard (Coast Guard), one with the Northwestern Michigan College (College) Aviation Program (both which fall into the governmental/military TTF activities) and a third with a local television station, which falls into the non-commercial aeronautical TTF activity.

The Airport has had a mix of use over the course of its existence having supported commercial operations and military operations at different times, and most recently a combination of these uses with commercial passenger traffic, search and rescue operations from the Coast Guard, and flight training offered by the College. Currently, the Airport is host to a number of aeronautical uses including three commercial airline tenants (American, Delta and United), a number of general aviation tenants including private general aviation aircraft and corporate flight departments, charter companies and maintenance facilities, as well as a number of FBOs.

The Airport is classified by the FAA as a primary airport in NPIAS and encompasses approximately 1,026 acres upon which two runways (6,500 feet long by 150 feet wide and 5,378 feet long by 150 feet wide) are situated. There are approximately 78 fixed-wing aircraft and six helicopters that are based at the Airport with approximately 84,880 total aircraft operations reported in 2012.

TTF PROPERTY BACKGROUND

As mentioned previously, the Airport has two TTF operations which can be classified as governmental/military TTF activities. The first of these is the United States Coast Guard which operates an Air Station for helicopters that conduct search and rescue missions for marine traffic on Lake Michigan, Lake Superior, and Lake Huron. The Coast Guard is located on the northern side of the airfield and has a ramp area of about 400,000 square feet, with one hangar that houses aircraft (five Eurocopter MH-65 Dolphin helicopters). Several smaller support buildings are located on the property as well, north of the hangar. The airside access to the Coast Guard ramp is provided by a dedicated taxilane that connects to the parallel taxiway adjacent to runway 10/28. While the helicopters often hover-taxi to and from the Coast Guard facility, Coast Guard fixed-wing aircraft on occasion use the taxiway to access the site. Since the Air Station is a military installation, TTF access is tightly controlled and secured from the public by the Coast Guard.

The second governmental/military TTF use is the College Aviation Program which conducts student pilot training at the Airport. The College operates 14 aircraft including eight Cessna 172s (one with retractable gear), two Cessna 152s, one Decathlon, one Super Cub seaplane, and two Piper Aztecs. This College is also located on the northern side of the airfield and includes a hangar with classrooms as well as an apron area and landside vehicle parking. Airport security regulations and TTF access are controlled by the College as a result of a cooperative and supportive relationship between the College and the Airport. It should be noted that while this TTF operation is mostly self-supported, the Airport does provide services to the College to help maintain its apron pavement.

ASSESSMENT OF TTF OPERATIONS

Due to the cooperative relationships with the three TTF entities and the valuable services provided to the Airport and the local community, the Airport is willing to continue to allow TTF operations, as long as they are conducted in a safe manner and do not have any negative operational impacts.

The life-saving operations of the Coast Guard benefit not only the surrounding region, but also recreational and commercial marine traffic throughout the entire upper Great Lakes. Additionally, the Coast Guard has been supportive of the needs of the Airport and is often involved with planning and other large scale decision making efforts.

The College benefits not only the Airport, but also the local community. The frequent flight training activity conducted by the College contributes to the need for an air traffic control tower as well as toward justification for airfield infrastructure improvements. The level of economic activity generated from the flight school also contributes to the economy of the Airport as well as to other businesses and support services throughout the local region. Finally, while the television station does not currently conduct any aeronautical related TTF activity, it has demonstrated a cooperative and supportive TTF relationship with the Airport.

STRUCTURE OF TTF OPERATIONS

The Airport utilizes a set of self-developed minimum standards to govern TTF operations. The minimum standards reflect federal obligations and include language that specifically outlines the responsibilities of TTF entities. In addition to the minimum standards, the Airport has TTF agreements with both the College and the television station that provides only the current property owners with access to the Airport and specifies the annual TTF access fee and other responsibilities for maintaining TTF operations.

MANAGEMENT OF TTF OPERATIONS

The Airport manages TTF operations through the TTF agreements with the TTF entities. TTF access provided in these agreements applies only to the current property owner and is not included in the property deed. As previously mentioned, the Airport has these agreements with two of the three TTF operations (College and the television station). The Coast Guard does not have a TTF agreement with the Airport.

The College has a TTF agreement that has been in effect since the 1970s and pays \$700 a year to access the Airport. According to the agreement, the College is allowed to engage in self-fueling and the Airport maintains the apron. The College secures its property and access to the airfield through a badging program for all students and faculty in the Aviation Program, which costs around \$2,500 a year.

Although the Coast Guard does not have a TTF agreement with the Airport, and is not charged a fee for conducting TTF operations, its relationship as a governmental and military entity eliminates the need for an agreement outlining TTF security responsibilities and business competition clauses. In fact, the presence of the Coast Guard helps contribute to the safety and security of Airport operations. It should be noted that while the Coast Guard is responsible for maintaining the ramp and facilities, the Airport offers assistance when requested.

CONCLUSIONS AND LESSONS LEARNED

All three TTF operations are beneficial to the Airport, its operation, and the surrounding community. The mission of the Coast Guard for marine search and rescue operations is invaluable not only to the local Traverse City community, but for all marine traffic operating in the upper Great Lakes region. Likewise, the flight training activities of the Northwestern Michigan College Aviation Program contributes to the infrastructure improvement needs and economy of the Airport and the surrounding community.

Keeping strong lines of communication between the Airport and the TTF entities has been critical to the success and safety of TTF operations at the Airport. As demonstrated through the cooperative agreements and strong relationships, a successful TTF operations program can be implemented if all parties understand the needs, concerns, federal obligations, and security responsibilities of an airport and the benefits of the TTF operation to the airport community and surrounding region.

APPENDIX D: GLOSSARY OF TERMS AND ACRONYMS

The terms identified in this Glossary of Terms and Acronyms shall be construed as defined (unless, from the context, a different meaning is intended or a different meaning is specifically defined).

Words or phrases that are not defined shall be construed consistent with common meaning or as generally understood throughout the general aviation industry.

GLOSSARY OF TERMS AND ACRONYMS

Aeronautical Activities – 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.

Airport Influence Area – is an area surrounding an airport that may experience substantial perceived or measurable impacts resulting from the airport and/or airport operations which is determined to guide airport compatible development.

Airport Layout Plan – graphically depicts existing land, infrastructure, and improvements on an airport and identifies the planned capital improvement projects for the airport.

Airport Master Plan – outlines the short (5 year), medium (10 year), and long-term (20 year) planning and development goals for an airport.

Airport Sponsor – is a federal agency, state agency, county, municipality (e.g., city, town, township, village, etc.), state enabled political subdivisions (e.g., authority, district, etc.), private entity, or combinations thereof that is authorized to own, plan, develop, operate, and manage a federally obligated airport.

Airport Sponsor Assurances – are certain obligations that federally obligated airports must comply with in order to receive AIP funds.

Airport Sponsor Obligations – includes statutes, regulations, assurances, executive orders, policies, and guidance that are used by federal and state agencies to ensure that an airport is planned, developed, operated, and managed for the benefit of the public in a way that will not adversely affect the safety, utility, or efficiency of the airport.

Airport Sponsor Regulatory Measures – includes ordinances, zoning codes, and building codes.

Airport Strategic Business Plan – identifies the mission, vision, and long-term strategic goals for an airport (typically, over a 10- to 20-year horizon) and uses a logical and disciplined structure to convey short-term business goals, objectives, and action plans that drive the day-to-day operation and management of an airport (typically, over a one year horizon).

Airside – consists of the runways, taxiways, taxilanes, aprons, roadways, lighting, utilities, navigational equipment, imaginary obstruction identification surfaces, airport design surfaces, etc.

Aviation Real Estate – consists of land and improvements leased or available for lease for the development of improvements for commercial and non-commercial aeronautical activities and land containing airport sponsor owned improvements leased or available for lease for commercial and non-commercial aeronautical activities.

Building Codes – stipulate minimum acceptable levels of safety for the design and construction of infrastructure, buildings, and facilities that are designed to protect the health, safety, and general welfare of the public during construction, use, and occupancy.

Commercial Aeronautical TTF Activities – encompass entities engaged in commercial aeronautical activities on property located adjacent to an airport having ground access for an aircraft across the airport's property boundary to the airport's airside infrastructure.

Contract – is an agreement between two or more parties creating rights, responsibilities, and obligations that are enforceable at law.

Deed Restriction – is a written instrument conveying an interest in real property; a deed restriction is a limitation on the use or enjoyment of real property that is included in a deed.

Development Standards – convey the design and construction standards and procedures governing the development of any aeronautical or non-aeronautical land and improvements on airport property.

Easement – is an interest in land that gives its holder the right to use land owned by another person. An easement appurtenant involves a benefitted parcel (e.g., a TTF property) and a burdened parcel (e.g., an airport). In contrast, an easement in gross involves a benefitted person (e.g., a TTF entity) and burdened parcel (e.g., an airport).

Federally Obligated Airport – a public use airport that has accepted federal assistance, either in the form of grants or property conveyances.

Goals – represent the desired results, outcomes, or levels of attainment that need to be achieved to realize the airport's mission and vision.

Governmental/Military TTF Activities – typically encompass the activities of federal and state government and military agencies and institutions on property located adjacent to an airport having ground access for an aircraft across the airport's property boundary to the airport's airside infrastructure. Such activities primarily benefit the airport, the community, and/or national defense.

Independent Operator – an entity who engages in commercial aeronautical activities at an airport without a physical place of business at the airport.

Land Use Plan – addresses current and projected land use patterns within a community (typically over a 20 year horizon), is typically included in the comprehensive plan.

Landside – consists of public roadways, public vehicle parking, lighting, utilities, etc.

Lease – is an interest in land that gives its holder a right to use and occupy real property. It is effectuated by a lease agreement wherein an owner (or tenant) conveys to a tenant (or subtenant) certain rights to use and occupy land and/or improvements in exchange for payment of rent or other compensation.

Leasing/Rents and Fees Policy – sets forth the parameters for leasing airport land and improvements and outlines the process for establishing and adjusting airport rents and fees.

License (or Permit) – is a grant of permission to a person to take certain actions that would otherwise be unlawful.

Minimum Standards – establish the qualifications and minimum requirements that must be met as a condition for the right to conduct a commercial aeronautical activity at an airport.

Mission Statement – conveys the reason for an airport's existence and may identify the core competencies of the organization as well.

Navigational Aids – includes instrument landing systems (ILS), localizers, glide slopes, marker beacons, nondirectional radio beacons (NDB), VHF omni-directional ranges (VOR), distance measuring equipment (DME), etc.

Non-Aeronautical TTF Activities – encompass activities that do not involve, make possible, and/or are not required for the operation of aircraft or do not contribute to or are not required for the safety of aircraft operations on property located adjacent to an airport having ground access for an aircraft across the airport's property boundary to the airport's airside infrastructure. According to the FAA, non-aeronautical TTF activities include the manufacturing of aircraft, aircraft parts, components, and accessories; ground based aviation training/education (excluding flight training in aircraft); and non-flying aircraft museums (excluding aircraft that are flown as part of museum activities).

Non-Aviation Real Estate – consists of land and improvements leased or available for lease for the development of improvements for commercial and non-commercial non-aeronautical activities and land containing airport sponsor owned improvements leased or available for lease for commercial and non-commercial non-aeronautical activities.

Non-Commercial Aeronautical TTF Activities – encompass TTF entities owning, leasing, or having the full and exclusive control of aircraft – for non-commercial purposes – on property located adjacent to an airport having ground access for an aircraft across the airport's property boundary to the airport's airside infrastructure. This includes individuals (who utilize aircraft for personal/recreational purposes) and companies (who utilize aircraft for purposes that are incidental or ancillary to a business such as providing transportation to company employees, customers, and others).

Non-Operating Budget – identifies the forecasted non-operating sources of funds (e.g., federal, state, and local grant funds, subsidies, contributions from third parties, etc.) and use of funds (e.g., depreciation, amortization, interest, non-operating capital expenditures, etc.) for the airport over a specific period of time (typically associated with the fiscal year of the airport).

Objective – is a significant step toward achieving a goal; it is a means to an end.

Operating Budget – identifies the forecasted operating revenues, cost of revenues, and operating expenses for the airport over a specific period of time (typically associated with the fiscal year of the airport).

Ordinances – are regulatory measures adopted by municipalities to address public health, safety, and general welfare.

Performance Measures – are used to compare financial and operational results between current and historical periods and compare results to the performance of comparable and competitive airports, a practice commonly referred to as comparative analysis.

Primary Management and Compliance Documents – are a compendium of airport policies, standards, rules, and regulations that play a key role in the development, operation, and management of an airport that typically consists of a leasing/rents and fees policy, minimum standards, rules and regulations, and development standards.

Primary Planning Documents – typically consist of an airport strategic business plan, airport master plan, and airport layout plan.

Residential TTF Activities – encompass entities with single and multi-unit (user) residences (e.g., homes, duplexes, apartments, etc.), with an attached or detached hangar, located on property located adjacent to an airport having ground access for an aircraft across the airport's property boundary to the airport's airside infrastructure. A hangar on TTF property that incorporates living quarters for permanent or long-term use is considered a residential TTF activity as well.

Rules and Regulations – apply to anyone who uses an airport at any time for any purpose, including operators, tenants, users, guests, and TTF entities, and are typically established to protect the health, safety, and general welfare of the public and ensure the safety, utility, and efficiency of the airport for the benefit of the public.

TTF Access – means the right or privilege of being granted ground access for an aircraft across the airport's property boundary to the airport's airside infrastructure for aircraft use. In certain situations, TTF access may be granted to vehicles and pedestrians as well.

TTF Activities – activities associated with TTF operations including residential, commercial aeronautical, non-commercial aeronautical, non-aeronautical, and governmental/military.

TTF Agreement – is a written contract or instrument (e.g., agreement, permit, easement, deed, etc.), enforceable by law, executed by an airport sponsor and TTF entity, permitting TTF operations.

TTF Entity – is a person, partnership, organization, or business that has a legal and separately identifiable existence, excluding the airport sponsor, which owns, leases, or has the full and exclusive control of TTF property. Additionally, a TTF entity has an agreement with an airport sponsor granting TTF access to the airport's airside infrastructure for engaging in TTF activities.

TTF Operation – occurs when an airport sponsor grants an entity ground access for an aircraft across the airport's property boundary to the airport's airside infrastructure (e.g., runways and taxiways) and gives the entity permission to engage in TTF activities from property located adjacent to an airport (i.e., TTF property).

TTF Property – land (and associated infrastructure and improvements) located adjacent to a federally obligated airport that is owned, leased, or under the full and exclusive control of an entity other than the airport sponsor having ground access for an aircraft across the airport's property boundary to the airport's airside infrastructure.

Vision Statement – articulates the aspirations for the airport; it is a picture of success.

Zoning Codes – identify the permitted, restricted, and/or prohibited uses of land (e.g., residential, commercial, industrial, institutional, infrastructure, agricultural, open space, etc.) within a community.

ACRONYMS

AC	Advisory Circular
AIP	Airport Improvement Program
ALP	Airport Layout Plan
CC&R	Covenants, Conditions, and Restrictions
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CGL	Compliance Guidance Letter
CPI	Consumer Price Index
CUP	Conditional Use Permit
DME	Distance Measuring Equipment
FBO	Fixed Base Operator
FOD	Foreign Object Debris
HOA	Homeowners Association
ILS	Instrument Landing System
MRO	Maintenance Repair and Overhaul
MTOW	Maximum Takeoff Weight
NASC	National Airlift Support Corporation
NDB	Nondirectional Radio Beacons
NPIAS	National Plan of Integrated Airport Systems
ODA	Oregon Department of Aviation
ORS	Oregon Revised Statutes
SAO	State Aviation Organization
SASO	Specialized Aviation Service Operator
RICO	Racketeer Influenced and Corrupt Organizations Act
RFP	Request for Proposals
RTTF	Residential TTF
TRB	Transportation Research Board
TTF	Through-The-Fence
U.S.	United States
VOR	VHF Omni-Directional Ranges

APPENDIX E: BIBLIOGRAPHY

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A4A	Airlines for America
AAAE	American Association of Airport Executives
AASHTO	American Association of State Highway Officials
AASHTO	American Association of State Highway and Transportation Officials
ACI-NA	Airports Council International—North America
ACRP	Airport Cooperative Research Program
ADA	Americans with Disabilities Act
APTA	American Public Transportation Association
ASCE	American Society of Civil Engineers
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
ATA	American Trucking Associations
CTAA	Community Transportation Association of America
CTBSSP	Commercial Truck and Bus Safety Synthesis Program
DHS	Department of Homeland Security
DOE	Department of Energy
EPA	Environmental Protection Agency
FAA	Federal Aviation Administration
FHWA	Federal Highway Administration
FMCSA	Federal Motor Carrier Safety Administration
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
HMCRP	Hazardous Materials Cooperative Research Program
IEEE	Institute of Electrical and Electronics Engineers
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
ITE	Institute of Transportation Engineers
MAP-21	Moving Ahead for Progress in the 21st Century Act (2012)
NASA	National Aeronautics and Space Administration
NASAO	National Association of State Aviation Officials
NCFRP	National Cooperative Freight Research Program
NCHRP	National Cooperative Highway Research Program
NHTSA	National Highway Traffic Safety Administration
NTSB	National Transportation Safety Board
PHMSA	Pipeline and Hazardous Materials Safety Administration
RITA	Research and Innovative Technology Administration
SAE	Society of Automotive Engineers
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (2005)
TCRP	Transit Cooperative Research Program
TEA-21	Transportation Equity Act for the 21st Century (1998)
TRB	Transportation Research Board
TSA	Transportation Security Administration
U.S.DOT	United States Department of Transportation