

POLICY RESOLUTION PR-6-06

TITLE: FAA MEMORANDUM OF AGREEMENT FOR ON-AIRPORT NO-COST LEASES

WHEREAS, the FAA issued a mandatory “Memorandum of Agreement” to be used for all rent-free land use leases at airports receiving AIP funding, effective October 1, 2005; and

WHEREAS, the intent of the MOA is to have one document per airport that lists all fixed-by-function navigational aids and thereby eliminate individual land leases for each navaid at an airport. The MOA contains a “List of Facilities” that would be updated through written modification when necessary; and

WHEREAS, airport sponsors were not given the opportunity to review this MOA on a national level prior to its implementation date.

WHEREAS, some of the problems with the MOA’s language as originally transmitted by FAA were:

1. FAA could have utility rights of way and place cabling wherever they desire without approval from the airport sponsor. The rights of way would not be legally described so the airport sponsor would not be able to locate them on airport drawings or in the field.
2. FAA would not be describing clear zones associated with particular navaids, some of which encompass very large tracts of land, yet the airport sponsor would be obligated to prevent structures from interfering with the clear zones.
3. No as-built drawings would be submitted to the airport sponsor.
4. FAA would not be monumenting any of its installations, nor marking locations of underground cabling.
5. FAA would have the right to park their vehicles adjacent to the navaids and enter airport property without prior communication with the airport sponsor.
6. There was no provision that FAA would be responsible for disposing of abandoned FAA improvements.
7. The “Hazardous Substance Contamination” clause in the MOA placed fault with the airport sponsor without evidence of causation.
8. There was no indemnification for the airport sponsor; however, FAA would be held harmless. (This violates the State of Alaska’s Anti-Deficiency statute.)
9. The MOA had a “Non-Restoration” clause that allowed the FAA to “walk away” from the premises without restoring or rehabilitating the property.
10. The MOA was silent on the topic of assignment.

WHEREAS, the concept of one “Master MOA” for all navaids on a specific airport is acceptable, the MOA must be negotiable to address concerns such as those listed above.

NOW, THEREFORE, BE IT RESOLVED, that the FAA permit their regions to negotiate terms of the MOA with the individual airport sponsors.