**INSTRUCTIONS FOR USING THE**

**ON-AIRPORT MEMORANDUM OF AGREEMENT (MOA) TEMPLATE**

This template is designed to guide you through drafting a Real Estate Contract for the use of land located on airport property with an airport that has previously entered into an Airport Improvement Plan (AIP) Grant Agreement. The facility must meet all of the following criteria in order to be included on the MOA:

1. Airport has received AIP funding in the past
2. Facility is located on Airport controlled property
3. Facility is unmanned NAS support equipment

If your facility does not meet ALL 3 of the above criteria, you should use the On Airport Land Lease or other contract template. If you are not sure, please consult with your Real Estate Contracting Division subject matter experts.

All instructions for creating these documents are typed in blue hidden text. You should create the documents with the hidden text showing, and then turn it off when printing the finished document.

The following formatting elements are found within this template:

BLUE HIDDEN TEXT- AMS PRESCRIBED USE FOR THE CLAUSE AND INSTRUCTIONS TO RECO

Red Text- DROP DOWN SELECTION OR FILL IN FOR YOUR ACTION

**How to turn hidden text on:**

Click on the File Tab

Click on Options

Click on Display

Under “Always show these formatting marks on the screen”- make sure the box for “Hidden Text” is checked.

Click OK

Click OK

This MOA is considered a contract for the acquisition of real property. For purposes of this document, the term airport is interchangeable with contractor and MOA is interchangeable with contract.

The template assumes the airport owns the property. However, if there are any unusual site-control issues, such as subleases, ground leases, etc., please consult with Real Estate Contracting Division subject matter experts and/or legal counsel, as needed.

All clauses are listed in their AMS approved form as of the date of publication in the footer. If you require specific changes to a clause, legal coordination is required as described in AMS Policy 3.13.2.1. Similarly, if you cannot find a template that meets your specific scenario, please consult with Real Estate Contracting Division subject matter experts and/or legal counsel as needed.

**PLEASE CHANGE ALL FONT TO BLACK AND DELETE THESE INSTRUCTIONS PRIOR TO SENDING THE CONTRACT FOR EXECUTION.**

**ON-AIRPORT MEMORANDUM OF AGREEMENT (MOA)**

**Between**

**THE UNITED STATES OF AMERICA**

**DEPARTMENT OF TRANSPORTATION**

**FEDERAL AVIATION ADMINISTRATION**

**And**

**[INSERT CONTRACTOR NAME]**

**FAA CONTRACT NO: [XXXXX-XX-X-XXXXX]**

**ATID/FACILITY TYPE: [INSERT ATID/MOA]**

**LOCATION: [CITY/STATE]**

1. **Preamble (09/2021) 6.1.1** *Insert in all real estate contracts. Edit fill-ins based on contract type.* This Choose an item. for real property is hereby entered into by and between <Insert Other Party's Legal Name>, hereinafter referred to as the Choose an item. and the United States of America, acting by and through the Federal Aviation Administration, hereinafter referred to as the FAA.
2. **Definitions (09/2021) 6.1.1-1** *Insert in all real estate contracts except outgrants.* For purposes of this document, the following definitions apply;  
     
   Contract- refers to this legal instrument used to acquire an interest in real property for the direct benefit or use by the FAA. As used herein, contract denotes the document (for example- lease, easement, memorandum of agreement, or other legally binding agreement) used to implement an agreement between a customer (buyer) and a seller (supplier).   
     
   Contractor- refers to the party(ies) receiving a direct procurement contract from the FAA and who is(are) responsible for performance of contract requirements. For purposes of this document, the contractor may also be called the Lessor, Permittor, Licensor, Grantor, Airport, or Offeror depending on the type of contract or the provision within the contract.   
     
   Government- refers to the United States of America acting by and through the Federal Aviation Administration (FAA). For purposes of this document, Government and FAA are interchangeable.  
     
   Real Estate Contracting Officer (RECO) - is a trained and warranted official who contracts for real property on behalf of the FAA. For purposes of this agreement, RECO is interchangeable with Contracting Officer (CO).

**[INSTRUCTIONS TO RECO: CHOOSE THE APPROPRIATE CLAUSE(S) FOR YOUR SCENARIO AND DELETE THE OTHER OR BOTH IF NOT APPLICABLE]**

1. **Succeeding Contract (09/2021) 6.1.2** *Insert in all contracts when the contract immediately follows an expiring contract or follows an expired contract in holdover status.* This contract succeeds <Insert Contract No. XXXXX-XX-X-XXXXX> and all other previous agreements between the parties for the property described in this document.
2. **Superseding Contract (09/2021) 6.1.2-1** *Insert in all contracts when the contract supersedes an existing contract, prior to the scheduled expiration of the existing contract term.* This contract supersedes <Insert Contract No. XXXXX-XX-X-XXXXX> and all other previous agreements between the parties for the property described in this document.
3. **Witnesseth (MOA) (09/2021) 6.1.3-1** *Insert in all on-airport MOAs.* Whereas, the parties listed above have entered into an Airport Improvement Grant Agreement; and  
     
   Whereas, the parties listed above have entered into an agreement providing for the construction, operation, and maintenance of FAA owned navigation, communication and weather aids for the support of Air Traffic Operations; and  
     
   Whereas, both parties agree the establishment, operation, and maintenance of systems for air traffic control, navigation, communication, and weather reporting is in the primary interest of safety and direct support of the ongoing operation of the <insert Airport's official name> Airport; and  
     
   Whereas, the parties consider it desirable to work in cooperation with each other in the technical installation and operation of air navigational aids.  
      
   Now, therefore, the parties mutually agree as follows:
4. **Purpose (09/2021) 6.1.5** *Insert in all real estate contracts except outgrants.* It is understood and agreed that the use of the herein described premises shall be related to FAA’s activities in support of the National Airspace System (NAS).
5. **Legal Authority (09/2021) 6.2.1** *Insert in all real estate contracts.* This contract is entered into under the authority of 49 U.S.C. 106(l)(6) and (n), which authorizes the Administrator of the FAA to enter into contracts, acquisitions of interests in real property, agreements, and other transactions on such terms and conditions as the Administrator determines necessary.
6. **On-Airport Land/MOA Term (09/2021) 6.2.3-1** *Insert in all no cost on-airport land leases and MOAs.* To have and to hold, for the term commencing on <Start Date> and continuing <through End Date or indefinitely> inclusive.
7. **Consideration (No Cost) (09/2021) 6.2.4-4** *Insert in all no-cost real estate contracts.* The Government shall pay the contractor no monetary consideration. It is mutually agreed that the rights extended to the Government herein are in consideration of the obligations assumed by the Government in its establishment, operation and maintenance of facilities upon the premises.
8. **Termination (09/2021) 6.2.5** *Insert in all land leases, MOAs, and antenna and equipment space leases.* The Government may terminate this contract at any time, in whole or in part, if the Real Estate Contracting Officer (RECO) determines that a termination is in the best interest of the Government. The RECO shall terminate this contract by delivering a written notice specifying the effective date of the termination. The termination notice shall be delivered at least 30 days before the effective termination date. No costs shall accrue as of the effective date of termination.
9. **Binding Effect (09/2021) 6.2.6** *Insert in all real estate contracts except purchases, eminent domain and outgrants.* The provisions of this contract and the conditions herein shall be binding upon, and for the benefit of, the parties and their successors and assigns. In the event of any sale or transfer of ownership of the property or any portion thereof, the Government will be deemed to have attorned to any purchaser, successor, assign, or transferee. The succeeding owner will be deemed to have assumed all rights and obligations of the contractor under this contract establishing direct privity of estate and contract between the Government and said succeeding owner, with the same force, effect, and relative priority in time and right as if the contract had initially been entered into between such succeeding owner and the Government.
10. **FAA Facilities for MOA (09/2021) 6.2.7** *Insert in all on-airport MOAs.* The Airport will allow the FAA to construct, operate, and maintain FAA owned navigation, communication and weather aid facilities in areas on the Airport that have been mutually determined and agreed upon. The FAA facilities covered by this agreement are identified on the most current approved Airport Layout Plan (ALP) and/or other pertinent drawings that are made part of this Agreement by reference and shown on the attached FAA “List of Facilities.”   
      
    A. Together with a right-of-way for ingress to and egress from the premises; a right-of-way for establishing and maintaining pole lines or underground lines for extending electrical power and/or telecommunications lines to the premises; including a right-of-way for subsurface power, communication and/or water lines to the premises; all rights-of-way to be over the area referred to as <insert Airport's official name>, to be routed reasonably determined to be the most convenient to the FAA and as not to interfere with Airport operations. The Airport shall have the right to review and comment on plans covering access and utility rights-of-way under this paragraph.  
      
    B. This contract includes the right to grading, conditioning, and installing drainage facilities, seeding the soil of the premises, and removing all obstructions from the premises that may constitute a hindrance to the establishment and maintenance of navigational aid systems. The Airport shall have the right to review and comment on plans covering work permitted under this paragraph.  
      
    C. The Government shall have the rights to make alterations, attach fixtures, and erect additions, structures or signs, in direct support of the Airport. The Airport shall have the right to review and comment on plans covering work permitted under this paragraph.  
      
    D. The Government shall also have the right to park, without cost, all official and privately owned vehicles used for the maintenance and operation of the air navigational facilities. Parking shall be provided adjacent to the navigational aid facility or as near as possible without interfering with the operation of the Airport.
11. **RE Clauses Incorporated by Reference (09/2021) 6.3.0** *Insert in all real estate contracts when clauses are included by reference.* This solicitation or contract, as applicable, incorporates by reference the provisions or clauses listed below with the same force and effect as if they were given in full text. Upon request, the RECO will make the full text available, or the full text may be obtained via internet at https://fast.faa.gov/RPF\_Real\_Property\_Clauses.cfm.
12. **Officials Not To Benefit (09/2021) 6.3.0-2** *Insert in all real estate contracts.*
13. **Contracting Officer's Representative (09/2021) 6.3.0-4** *Insert in all real estate contracts.*
14. **Contingent Fees (09/2021) 6.3.0-5** *Insert in all real estate contracts.*
15. **Anti-Kickback Procedures (09/2021) 6.3.0-6** *Insert in all real estate contracts expected to exceed $150,000.*
16. **Title to Improvements (09/2021) 6.3.5** *Insert in all land leases and on-airport MOAs.* Title to the improvements constructed for use by the Government during the life of this Agreement shall be in the name of the Government.
17. **Funding Responsibility for FAA Facilities (09/2021) 6.3.6** *Insert in all real estate contracts except outgrants.* The Contractor agrees that all Contractor requested relocation(s), replacement(s), or modification(s) of any existing or future FAA navigational aid or communication system(s) necessitated by Contractor improvements or changes will be at the expense of the Contractor. In the event that the Contractor requested changes or improvements interferes with the technical and/or operational characteristics of the FAA's facility, the Contractor will immediately correct the interference issues at the Contractor’s expense. Any FAA requested relocation, replacement, or modifications shall be at the FAA's expense. In the event such relocations, replacements, or modifications are necessary due to causes not attributable to either the Contractor or the FAA, funding responsibility shall be determined by mutual agreement between the parties, and memorialized in a Supplemental Agreement.
18. **No Waiver (09/2021) 6.3.17** *Insert in all real estate contracts.* No failure by the Government to insist upon strict performance of any provision of this Contract or failure to exercise any right, or remedy consequent to a breach thereof, will constitute a waiver of any such breach in the future.

**[INSTRUCTIONS TO RECO: CHOOSE THE CORRECT CLAUSE FOR YOUR SCENARIO AND DELETE THE OTHER]**

1. **Non-Restoration (09/2021) 6.3.18** *Insert in all real estate leases and on-airport MOAs unless specific restorations are negotiated and Clause 6.3.18-1 Restoration is used. REMOVE this clause if 6.3.18-1 Restoration is used.* It is hereby agreed between the parties that, upon termination of its occupancy, including any holdover period, the Government shall have no obligation to restore and/or rehabilitate, either wholly or partially, the property that is the subject of this contract. It is further agreed that the Government may abandon in place any or all of the structures and equipment installed in or located upon said property by the Government during its tenure. Such abandoned equipment shall become the property of the contractor.
2. **Restoration (09/2021) 6.3.18-1** *This is an alternate restoration clause that may be used for leases and on-airport MOAs on a case-by-case basis when use of the non-restoration clause is neither feasible nor appropriate. RECO should remove paragraph C for on-airport land leases or on-airport MOAs. REMOVE this Clause if 6.3.18 Non-Restoration is used.* A. The Government shall surrender possession of the premises upon vacation of the premises. The Government at its option shall either:  
   i. Restore the premises to as good condition as that existing at the time of the Government's initial entry upon the premises under this contract or any preceding contract (ordinary wear and tear, damage by natural elements or by circumstances over which the Government has no control, excepted) or,  
   ii. The Government may also elect to offer abandonment of installed real property improvements in lieu of restoration or some combination of abandonment and restoration as determined by mutual agreement with the contractor, so long as it is determined by the RECO to be in the best interests of the Government or,   
   <INSTRUCTION TO RECO: REMOVE (iii) FOR ON AIRPORT LAND LEASES OR MOA>  
   iii. <Make an equitable adjustment in the contract amount for the cost of such restoration of the premises or the diminution of the value of the premises if unrestored, whichever is less. Should a mutually acceptable settlement be made in accordance with paragraphs (i), (ii), or this paragraph, the parties shall enter into a supplemental agreement hereto effecting such agreement.>  
   B. In the event that the Government has to make payment under this clause, such payments will not exceed appropriations available at the time of the restoration in violation of the Anti-Deficiency Act.  
   C. Nothing in this contract may be considered as implying that Congress will, at a later date, appropriate funds sufficient to meet the deficiencies.
3. **Quiet Enjoyment (09/2021) 6.3.25** *Insert in all real estate contracts except outgrants.* The Contractor warrants that they have good and valid title to the premises, and rights of ingress and egress, and warrants and covenants to defend the Government’s use and enjoyment of said premises against third party claims.
4. **Damage by Fire or Other Casualty or Environmental Hazards (09/2021) 6.3.26-1** *Insert in all no-cost on-airport land leases and MOAs.* If the premises is partially or totally destroyed or damaged by fire or other casualty or if environmentally hazardous conditions are found to exist so that the premises is untenantable as determined by the Government, the Government may agree to allow restoration/reconstruction, or may elect to terminate the contract, in whole or in part, immediately by giving written notice to the contractor.
5. **Interference with FAA Operations (09/2021) 6.3.28-2** *Insert in all on-airport land leases and MOAs.* The Airport agrees not to erect or allow to be erected any structure or obstruction of any kind or to allow any natural growth that the Government determines would interfere with the proper operations of Government facilities.   
   The Airport agrees to keep areas around the Government’s navigational aids mowed at all times to a height so that weeds and vegetation will not be an obstruction to such operation or maintenance of these facilities.
6. **Hold Harmless (09/2021) 6.3.30** *Insert in all real estate contracts.* In accordance with and subject to the conditions, limitations and exceptions set forth in the Federal Tort Claims Act, 28 U.S.C. Ch. 17, the Government will be liable to persons damaged by any personal injury, death or injury to or loss of property, which is caused by a negligent or wrongful act or omission of an employee of the Government while acting within the scope of his office or employment under circumstances where a private person would be liable in accordance with the law of the place where the act or omission occurred. The foregoing shall not be deemed to extend the Government's liability beyond that existing under the Act at the time of such act or omission or to preclude the Government from using any defense available in law or equity.
7. **Notification of Change in Ownership or Control of Land (09/2021) 6.3.34** *Insert in all real estate contracts except outgrants.* If the Contractor sells, dies or becomes incapacitated, or otherwise conveys to another party or parties any interest in the aforesaid land, rights of way thereto, and any areas affecting the premises, the Government shall be notified in writing, of any such transfer or conveyance within 30 calendar days after completion of the change in property rights. Concurrent with the written notification, the Contractor or Contractor’s heirs, representatives, assignees, or trustees shall provide the Government copies of the associated legal document(s) (acceptable to local authorities) for transferring and/or conveying the property rights.
8. **Integrated Agreement (09/2021) 6.3.36** *Insert in all real estate contracts.* This Contract, upon execution, contains the entire agreement of the parties, and no prior written or oral agreement, express or implied shall be admissible to contradict the provisions of this Contract.
9. **Unauthorized Negotiating (09/2021) 6.3.37** *Insert in all leases and easements.* In no event shall the Contractor enter into negotiations concerning the premises with anyone other than the RECO or his/her designee.
10. **Disputes (09/2021) 6.3.39-1** *Insert in all outgrants and on-airport MOAs.* Where possible, disputes will be resolved by informal discussion between the parties. In the event the parties are unable to resolve any disagreement through good faith negotiations, the dispute will be resolved by management of either party. The decision is final unless it is timely appealed to the FAA Administrator, whose decision is not subject to further administrative review and, to the extent permitted by law, is final and binding.
11. **Hazardous Substance Contamination (09/2021) 6.8.1** *Insert in all land leases and MOAs. Changes must be approved by the appropriate FAA environmental representative.* The FAA agrees to remediate, at its sole cost, all hazardous substance contamination on the FAA facility premises that is found to have occurred as a direct result of the installation, operation, relocation and/or maintenance of the FAA’s facilities covered by this contract. The Contractor agrees to remediate at its sole cost, all other hazardous substance contamination found on the FAA facility premises. The Contractor also agrees to hold the FAA harmless for all costs, liabilities and/or claims by third parties that arise out of hazardous contamination found on the FAA facility premises that are not directly attributable to the installation, operation and/or maintenance of the facilities.
12. **Notices (09/2021) 6.10.1** *Insert in all real estate leases, easements, and MOAs.* All notices/correspondence must be in writing, reference the Contract number, and be addressed as follows:  
      
     TO THE Contractor:   
     <Insert Contractor’s Name>   
     <Insert correspondence address>  
     <Insert City, State, Zip code>   
      
     TO THE GOVERNMENT:  
    <Real Estate Contracting Division>, <routing symbol> <insert address>  
     <Insert City, State, Zip code>
13. **Signature Block (09/2021) 6.10.3** *Insert in all leases, easements, and MOAs. RECO may adjust as necessary for multiple signees/notary/etc. NOTE: All contracts should have a Notary Acknowledgement for each signee. Contracts with an entity other than a private individual should also have a Certificate of Authorization for the Contractor.* This Contract shall become binding when it is fully executed by both parties. In witness whereof, the parties hereto have subscribed their names as of the date shown below.  
    <ENTER CONTRACTOR’S LEGAL NAME>   
    By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_   
    Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_   
    Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_   
    Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_   
      
    UNITED STATES OF AMERICA  
    DEPARTMENT OF TRANSPORTATION  
    FEDERAL AVIATION ADMINISTRATION  
    By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_   
    Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_   
    Title: Real Estate Contracting Officer   
    Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ATTACHMENTS/EXHIBITS:**

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