**INSTRUCTIONS FOR USING THE ON-AIRPORT MEMORANDUM OF AGREEMENT**

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.

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| **This document includes the following formatting elements:**  All instructions for creating these documents are typed in blue hidden text. You should create the documents with the hidden text showing, **it will not print.** Click on File > Print to see a preview of the document WITHOUT the hidden text.  The following formatting elements are found within this template:  BLUE HIDDEN TEXT- INSTRUCTIONS TO AUTHOR(S)  RED TEXT- 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 |

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 AND FACILITY NAME/ABBREVIATION]**

**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 and standard space leases.* 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. **Term (No Cost) (07/2022) 6.2.3-1** *Insert in all no cost on-airport land leases and MOAs. May also be used in no cost Antenna & Equipment Space Leases.* To have and to hold, for the term commencing on <Start Date> and continuing through <End Date or indefinitely>.
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 (01/2023) 6.2.5** *Insert in all land leases, restrictive aerial easements, 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. **Changes, Modifications (01/2022) 6.3.8-1** *Insert in all outgrants, easements, and MOAs.* The RECO may at any time, by written order via Supplemental Agreement, make changes to this contract. The modification shall cite the subject contract, and shall state the exact nature of the modification. No oral statement by any person shall be interpreted as modifying or otherwise affecting the terms of this contract.
19. **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 (01/2024) 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. 171, 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. **Compliance with Applicable Laws (01/2023) 6.3.31-1** *Insert in all land leases, MOAs, and easements.* This Contract shall be governed by federal law.  The Contractor shall comply with all applicable federal, state, and local laws.  The Government will comply with all federal, state, and local laws applicable to and enforceable against it, provided that nothing in this lease shall be construed as a waiver of the sovereign immunity of the Government.
8. **Notification of Change in Ownership or Control of Land (10/2022) 6.3.34** *Insert in all land leases, MOAs, and easements.* 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.
9. **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.
10. **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.
11. **Disputes (01/2022) 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 upon joint agreement of management representatives from both parties. 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.
12. **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.
13. **Cooperation with Defensive Counterintelligence Program Requirements (DCIP) (09/2021) 6.9.6** *Insert in all real estate contracts where contractor employees will either (1) have unescorted access to non-public areas of FAA facilities; (2) have access to non-public portions of FAA equipment, network, or information systems; or (3) have access to Classified National Security Information (CNSI), Sensitive Unclassified Information (SUI); or otherwise protected information in possession of the FAA.*   
    a. The FAA’s Defensive Counterintelligence Program (DCIP) (AXI-310) detects, deters, and denies illicit human and technical intelligence collection activities as well as addressing other national security concerns. Such activities and concerns include, but are not limited to, activities conducted by, on behalf of, or otherwise supporting, foreign governments or elements thereof; entities or individuals that meet the definition of “foreign power” or “agent of a foreign power” in 50 U.S.C. § 1801; foreign organizations; foreign persons; international terrorist organizations or activities; or agents of any of the foregoing; or any other individuals or entities acting on behalf of, or otherwise in support of, any of the foregoing, against the FAA, its employees, facilities, equipment, systems, networks, operations, and information.   
    b. Consistent with FAA Order 1600.84 FAA Defensive Counterintelligence Program, the contractor is required to cooperate to the fullest extent possible in the following requirements:  
      
    1) Any authorized DCIP inquiry or Counterintelligence (CI) investigation connected with this contract requested by the FAA Office of Security and Hazardous Materials Safety (ASH) to include granting authorized ASH or outside investigative department or agency personnel access to contract information, records or contractor personnel;  
    2) All applicable FAA security requirements as required under the contract consistent with FAA policy and applicable Federal law;  
    3) When requested by the DCIP, and necessary to protect Controlled National Security Information (CNSI), Sensitive Unclassified Information (SUI), or otherwise protected information, contractor employees must sign a Defensive Counterintelligence Program Non-Disclosure Agreement (NDA) prior to being briefed on any information pertaining to a DCIP inquiry, CI investigation by another Department or Agency, or any other matter related to the DCIP. The NDA is located in Appendix C of the Order and in AMS Procurement Forms. Contractor employees are exempt from acknowledging any language in the NDA associated with unauthorized disclosure of received information that subjects FAA employees to personnel actions specified in the Human Resources Policy Manual (HRPM) Volume 4: Employee Relations ER-4.1 (4) and applicable collective bargaining agreements.  
    4) Contractors must first coordinate with the DCIP at ASH-CI-Notify@faa.gov before contacting any law enforcement or investigative agencies on any known or suspected counterintelligence or other national security concern described in Paragraph 1 of FAA Order 1600.84.  
    5) Contractors must notify the DCIP as soon as possible if any law enforcement or investigative agency contacts them directly on any matter covered by FAA Order 1600.84. If an employee receives a direct request from an outside law enforcement or investigative agency for evidence related to a counterintelligence or other national security concern as described in Paragraph 1 of FAA Order 1600.84, the employee will refer the law enforcement or investigative agency to AXI-310.  
    6) Contractors must immediately notify the DCIP at ASH-CI-Notify@faa.gov, and the CO or their designee if their employees observe any of the following-  
    a) Suspected or known acts of foreign intelligence collection activity against the FAA or its employees, systems, networks, operations, facilities, equipment, or information;   
    b) Suspected or known espionage (See Appendix A of FAA Order 1600.84 for definition);  
    c) Suspected or known unauthorized disclosure of CNSI, SUI, or otherwise protected information in the possession of the FAA by a FAA employee to a foreign government or element thereof, a foreign organization, an entity or individual that meets the definition of “foreign power” or “agent of a foreign power” in 50 U.S.C. § 1801, a foreign person, an international terrorist organization or activity, an agent of any of the foregoing, or any other individual or entity acting on behalf of or otherwise supporting any of the foregoing; or   
    d) Suspected or known theft, unauthorized disclosure, or unauthorized amassing of CNSI, SUI, or otherwise protected information in the possession of the FAA known or suspected to be for the purpose of conveying it to a foreign government or element thereof, an entity or individual that meets the definition of “foreign power” or “agent of a foreign power” in 50 U.S.C. § 1801, a foreign organization, a foreign person, an international terrorist organization or activity, an agent of any of the foregoing, any other individual or entity acting on behalf of or otherwise supporting any of the foregoing, or an unknown recipient, or statements of intent by an FAA employee to engage in any such actions. SUI or otherwise protected unclassified information whose theft, unauthorized disclosure, or unauthorized amassing, for the purposes described in the preceding sentence, is of concern includes, but is not limited to:   
     i. Non-public information from an official FAA data network or information;   
    ii. Imagery;   
    iii. Technical specifications;   
    iv. Trade secrets;   
    v. Proprietary information;   
    vi. Sensitive Security Information (SSI); and  
    vii. Any other SUI  
    e) Activities similar to those described in paragraphs b(6)(a)-(d) by, on behalf of, or otherwise supporting, potential lone wolf actors, malicious insiders, or transnational organizations of a national security concern.   
      
    If notification of the CO or their designee is not feasible owing to the CO and/or their designee being one of the suspicious actor(s), the contractor must notify the DCIP directly at the above email address if they observe any of the above activities.  
    7) Elicitation attempts. Elicitation is the strategic use of conversation to extract information from people without giving them the feeling they are being interrogated. It is a technique used to discreetly gather information. It is a conversation with a specific purpose: collect information that is not readily available and do so without raising suspicion that specific facts are being sought. The conversation can be in person, over the phone, or in writing.  
      
    Contractors must immediately notify the DCIP at ASH-CI-Notify@faa.gov, and the CO and/or their designee if their employees experience any known or suspected direct (e.g., personal encounter or telephone) or indirect (e.g., electronic or written communication) elicitation or attempted elicitation of CNSI, SUI, or otherwise protected information in the possession of the FAA by any suspicious entity or person, regardless of ethnicity, nationality, or FAA employment status, as soon as possible, but no later than 12 hours after the time of the incident, initial detection, or receipt of report, as applicable, or the next business day if the incident, initial detection, or receipt of report, as applicable, occurs on a weekend or holiday. Contractors must report these incidents regardless of where, when, or how the contact took place, or whether the employee was on or off duty. Suspicious activities include, but are not limited to:  
    a) Direct or indirect contact or communication with a known or suspected foreign or foreign-affiliated person, or an unknown or unfamiliar person, seeking access to or disclosure of any CNSI, SUI, or otherwise protected information in the possession of the FAA for which such person does not meet the applicable access requirements, or that is outside the scope of their official duties;   
    b) Direct or indirect contact or communication with a known or suspected foreign or foreign-affiliated person, or an unknown or unfamiliar person, seeking specific information about an FAA employee’s official duty responsibilities, work projects, access to information, security clearance, travel plans, coworkers’ identities, or Information Technology (IT) system credentials for which such person does not meet the applicable access requirements, or that is outside the scope of their official duties;   
    c) Direct or indirect contact, communication, or observance of a known or suspected foreign or foreign-affiliated person, or an unknown or unfamiliar person, seeking unauthorized access to FAA employees, equipment, operations, systems, information, facilities, or networks, including through a Personal Electronic Device (PED);  
    d) Direct or indirect contact, communication, or observance of a known or suspected foreign or foreign-affiliated person, or an unknown or unfamiliar person, introducing, or seeking to introduce, unauthorized digital media or software into any FAA equipment, facilities, systems, or networks, including through a PED;   
    e) Offers of compensation, gifts, or favors in exchange for FAA information or access to such information, regardless of medium; or access to FAA employees, equipment, operations, facilities, systems, or networks;   
    f) Threats, attempts to coerce, or attempts to exploit any FAA employee by a known or suspected foreign or foreign-affiliated person, or by an unknown or unfamiliar person, in order to illicitly acquire FAA information or access to FAA employees, equipment, operations, facilities, systems, information, or networks;   
    g) Solicitation by any person of FAA information for which they do not meet the applicable access requirements or that is outside the scope of their official duties;   
    h) A request by any person for access to FAA employees, facilities, equipment, operations, systems, information, or networks for which they do not meet the applicable access requirements or that is outside the scope of their official duties; and   
    i) Suspicious or unexplained contact by any person with an FAA employee, where the person has suspicious or unexplained knowledge of the employee.   
      
    Unless requested by ASH, contractors must not disclose an elicitation attempt of the nature described above, in any other manner than to report the attempt to the CO or their designee and request that they report it to the DCIP. If that is not feasible, or if the CO or their designee are the suspicious actor(s), contractors may make these reports directly to the DCIP at the above email address. Contractors must not take any actions on their own initiative, as doing so may interfere with a DCIP inquiry or CI investigation.   
    c. Failure to cooperate with any of the activities under section (b) above may be considered by the FAA to be a material breach of the contract.  
    d. The Contractor is responsible for ensuring that the provisions of this clause flow down to its subsidiaries, subcontractors, and consultants performing this contract.
14. **Federal Acquisition Supply Chain Security Act Orders—Representation and Disclosures (01/2024) 6.9.8** *Insert in all real estate SIRs and contracts. Must be used prior to awarding a new, superseding, or succeeding lease or extending or renewing any lease.*
15. *Definitions*. As used in this provision*, Covered article*, *FASCSA order*, *Intelligence community*, *National security system*, *Reasonable inquiry*, *Sensitive compartmented information*, *Sensitive compartmented information system*, and *Source* have the meaning provided in the AMS Real Property Clause 6.9.8-1, Federal Acquisition Supply Chain Security Act Orders—Prohibition.
16. *Prohibition*. Contractors are prohibited from providing or using as part of the performance of the contract any covered article, or any products or services produced or provided by a source, if the prohibition is set out in an applicable Federal Acquisition Supply Chain Security Act (FASCSA) order, as described in paragraph (b)(1) of AMS Real Property Clause 6.9.8-1, Federal Acquisition Supply Chain Security Act Orders—Prohibition.
17. *Procedures*.
18. The Offeror must search for applicable FASCSA orders of the type identified in paragraph (b)(1) of AMS Real Property Clause 6.9.8-1 in the System for Award Management (SAM). Issued FASCSA Orders may be identified by selecting the “View FASCSA Orders” button from the SAM homepage (https://www.sam.gov) and viewing or downloading FASCSA orders from the Supply Chain Security Orders webpage.
19. The Offeror must review the SIR for any FASCSA orders that are not in SAM but are effective and do apply to the SIR and resultant contract (see AMS Guidance T3.8.9.C.4.c.(2)(A)(ii)).
20. FASCSA orders issued after the publication date of the SIR do not apply unless the order is subsequently added to the SIR via amendment.
21. *Representation*. By submission of this offer, the offeror represents that it has conducted a “reasonable inquiry” (as defined in AMS Real Property Clause 6.9.8-1), and that the offeror does not propose to provide or use in response to this SIR any covered article, or any products or services produced or provided by a source, if the covered article or the source is prohibited by an applicable FASCSA order in effect on the date the SIR was issued, except as waived by the SIR, or as disclosed in paragraph (e) *Disclosures*, below.
22. *Disclosures*. The purpose for this disclosure is so the FAA may decide whether to issue a waiver. For any covered article, or any products or services produced or provided by a source, if the covered article or the source is subject to an applicable FASCSA order, and the Offeror is unable to represent compliance, then the Offeror must provide the following information as part of the offer:
23. Name of the product or service provided to the Government;
24. Name of the covered article or source subject to a FASCSA order;
25. If applicable, name of the vendor, including the Commercial and Government Entity code and unique entity identifier (if known), that supplied the covered article or the product or service to the Offeror;
26. Brand;
27. Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number);
28. Item description; and
29. Reason why the applicable covered article or the product or service is being provided or used.
30. *FAA review of disclosures*. The Contracting Officer will review disclosures provided in paragraph (e) *Disclosures*, to determine if any waiver may be sought. A Contracting Officer may choose not to pursue a waiver for covered articles or sources otherwise subject to a FASCSA order and may instead make an award to an offeror that does not require a waiver.
31. **Federal Acquisition Supply Chain Security Act Orders—Prohibition (01/2024) 6.9.8-1** *Insert in all real estate contracts. Must be used prior to awarding a new, superseding, or succeeding lease or extending or renewing any lease. COs must fill in the checkboxes at paragraph (b)(1). Unless the requiring service organization instructs otherwise, solely DHS FASCSA orders are applicable and thus the DHS FASCSA order checkbox should be marked as “yes” and the DoD and DNI FASCSA order checkboxes marked as “no.”*
32. *Definitions*. As used in this clause—

*Covered article,* as defined in 41 U.S.C. 4713(k), means—

(1) “Information technology,” as defined in 40 U.S.C. 11101, including cloud computing services of all types;

(2) “Telecommunications equipment” or “telecommunications service,” as those terms are defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

(3) The processing of information on a Federal or non-Federal information system, subject to the requirements of the Controlled Unclassified Information program (see 32 CFR part 2002); or

(4) Hardware, systems, devices, software, or services that include embedded or incidental information technology.

*FASCSA order* means any of the following orders issued under the Federal Acquisition Supply Chain Security Act (FASCSA) requiring the removal of covered articles from executive agency information systems or the exclusion of one or more named sources or named covered articles from executive agency procurement actions, as described in 41 CFR 201–1.303(d) and (e):

(1) The Secretary of Homeland Security may issue FASCSA orders applicable to civilian agencies, to the extent not covered by paragraph (2) or (3) of this definition. This type of FASCSA order may be referred to as a Department of Homeland Security (DHS) FASCSA order.

(2) The Secretary of Defense may issue FASCSA orders applicable to the Department of Defense (DoD) and national security systems other than sensitive compartmented information systems. This type of FASCSA order may be referred to as a DoD FASCSA order.

(3) The Director of National Intelligence (DNI) may issue FASCSA orders applicable to the intelligence community and sensitive compartmented information systems, to the extent not covered by paragraph (2) of this definition. This type of FASCSA order may be referred to as a DNI FASCSA order.

*Intelligence community,* as defined by 50 U.S.C. 3003(4), means the following—

(1) The Office of the Director of National Intelligence;

(2) The Central Intelligence Agency;

(3) The National Security Agency;

(4) The Defense Intelligence Agency;

(5) The National Geospatial-Intelligence Agency;

(6) The National Reconnaissance Office;

(7) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;

(8) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Department of Energy;

(9) The Bureau of Intelligence and Research of the Department of State;

(10) The Office of Intelligence and Analysis of the Department of the Treasury;

(11) The Office of Intelligence and Analysis of the Department of Homeland Security; or

(12) Such other elements of any department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

*National security system*, as defined in 44 U.S.C. 3552, means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

(1) The function, operation, or use of which involves intelligence activities; involves cryptologic activities related to national security; involves command and control of military forces; involves equipment that is an integral part of a weapon or weapons system; or is critical to the direct fulfillment of military or intelligence missions, but does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications); or

(2) Is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy.

*Reasonable Inquiry* means an inquiry designed to uncover any information in the entity's possession about the identity of any covered articles, or any products or services produced or provided by a source. This applies when the covered article or the source is subject to an applicable FASCSA order. A reasonable inquiry excludes the need to include an internal or third-party audit.

*Sensitive compartmented information* means classified information concerning or derived from intelligence sources, methods, or analytical processes, which is required to be handled within formal access control systems established by the Director of National Intelligence.

*Sensitive compartmented information system* means a national security system authorized to process or store sensitive compartmented information.

*Source*means a non-Federal supplier, or potential supplier, of products or services, at any tier.

1. *Prohibition*.
2. Unless an applicable waiver has been issued by the issuing official, Contractors are prohibited from providing or using as part of the performance of the contract any covered article, or any products or services produced or provided by a source, if the covered article or the source is prohibited by any applicable FASCSA orders identified by the checkbox(es) in this paragraph (b)(1).

[INSTRUCTION TO RECO: The Contracting Officer must select either “yes” or “no” for each of the following types of FASCSA orders. Unless the requiring service organization instructs otherwise, solely DHS FASCSA orders are applicable and thus the DHS FASCSA order checkbox should be marked as “yes” and the DoD and DNI FASCSA order checkboxes marked as “no.”]

Yes ☐ No ☐ DHS FASCSA orders

Yes ☐ No ☐ DoD FASCSA orders

Yes ☐ No ☐ DNI FASCSA orders

1. The Contractor must search for applicable FASCSA orders of the type identified in paragraph (b)(1) of this clause in the System for Award Management (SAM). Issued FASCSA Orders may be identified by selecting the “View FASCSA Orders” button from the SAM homepage (https://www.sam.gov) and viewing or downloading FASCSA orders from the Supply Chain Security Orders webpage.
2. The FAA may identify in the SIR additional FASCSA orders that are not in SAM, which are effective and apply to the SIR and resultant contract.
3. A FASCSA order issued after the publication date of the SIR applies to this contract only if added by an amendment to the SIR or by modification to the contract. However, see paragraph (c) of this clause.
4. *Contractor request for waivers*.
5. *Required disclosures*. If the contractor wishes to ask for a waiver of the requirements of an existing order identified in a SIR or contract for a waiver of the requirements of a new FASCSA order being applied through modification, then the Contractor must disclose the following:
6. Name of the product or service provided to the Government;
7. Name of the covered article or source subject to a FASCSA order;
8. If applicable, name of the vendor, including the Commercial and Government Entity code and unique entity identifier (if known), that supplied or supplies the covered article or the product or service to the Offeror;
9. Brand;
10. Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number);
11. Item Description;
12. Reason why the applicable covered article or the product or service is being provided or used;
13. *FAA review of disclosures*. The Contracting Officer will review disclosures provided in paragraph (b)(5)(i) to determine if any waiver is warranted. A Contracting Officer may choose not to pursue a waiver for covered articles or sources otherwise covered by a FASCSA order and to instead pursue other appropriate action.
14. *Notice and reporting requirement*.
15. During contract performance, the Contractor is required to:
16. Comply with all FASCSA orders identified under paragraph (b) of this clause; and
17. Review SAM.gov at least once every three months, or as advised by the Contracting Officer, to check for covered articles subject to FASCSA order(s), or for products or services produced by a source subject to FASCSA order(s) not currently identified under paragraph (b) of this clause.
18. If the Contractor identifies a new FASCSA order(s) that could impact their supply chain, then the Contractor must conduct a reasonable inquiry to identify whether a covered article or product or service produced or provided by a source subject to the FASCSA order(s) was provided to the Government or used during contract performance.
19. If the Contractor identifies, including through any notification by a subcontractor at any tier, that a covered article or product or service produced or provided by a covered source was provided to the Government or used during contract performance and is subject to a FASCSA order(s) identified in paragraph (b) of this clause, or a new FASCSA order identified in paragraph (c)(2) of this clause, the Contractor must submit a report to the Contracting Officer.
20. The Contractor must report the following information for each covered article or each product or service produced or provided by a source, where the covered article or source is subject to a FASCSA order, pursuant to paragraph (c) of this clause:
21. Within 3 business days from the date of such identification or notification:
22. Contract number;
23. Order number(s), if applicable;
24. Name of the product or service provided to the Government or used during performance of the contract;
25. Name of the covered article or source subject to a FASCSA order;
26. If applicable, name of the vendor, including the Commercial and Government Entity code and unique entity identifier (if known), that supplied the covered article or the product or service to the Contractor;
27. Brand;
28. Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number);
29. Item description; and
30. Any readily available information about mitigation actions undertaken or recommended.
31. Within 10 business days of submitting the information in paragraph (c)(4)(i) of this clause:
32. Any further available information about mitigation actions undertaken or recommended.
33. In addition, the Contractor must describe the efforts it undertook to prevent submission or use of the covered article or the product or service produced or provided by a source subject to an applicable FASCSA order, and any additional efforts that will be incorporated to prevent future submission or use of the covered article or the product or service produced or provided by a source that is subject to an applicable FASCSA order.
34. *Removal*. Upon notification from the contracting officer, during the performance of the contract, the Contractor must promptly make any necessary changes or modifications to remove any covered article or any product or service produced or provided by a source that is subject to an applicable Governmentwide FASCSA order.
35. *Subcontracts*.
36. The Contractor must insert the substance of this clause, including this paragraph (e) and excluding paragraph (c)(1) of this clause, in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial products and commercial services.
37. The Government may identify in the SIR additional FASCSA orders that are not in SAM, which are effective and apply to the contract and any subcontracts and other contractual instruments under the contract. The Contractor or higher-tier subcontractor must notify their subcontractors, and suppliers under other contractual instruments, that the FASCSA orders in the SIR that are not in SAM apply to the contract and all subcontracts.
38. **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:  
    Federal Aviation Administration  
    <Real Estate Contracting Division>, <routing symbol> <insert address>  
    <Insert City, State, Zip code>
39. **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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| --- | --- | --- | --- |
| **Number** | **Title** | **Date** | **Number of Pages** |
| **1** |  |  |  |
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| **4** |  |  |  |
| **5** |  |  |  |

**DATED <INSERT START DATE>**

**LIST OF FACILITIES**

**MEMORANDUM OF AGREEMENT**

**<XXXXX-XX-X-XXXXX>**

**<INSERT OFFICIAL AIRPORT NAME> AIRPORT**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Number** | **Facility** | **R/W (ATID)**  **Number** | **GSA Control Number** | **Comments** |
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