



City of Keene
New Hampshire

**PLANNING, LICENSES AND
DEVELOPMENT COMMITTEE
AGENDA
Council Chambers A
October 24, 2018
7:00 PM**

David C. Richards
Philip M. Jones
George S. Hansel
Bartlomiej K. Sapeta
Margaret M. Rice

-
1. FAA Land Lease Memorandum of Understanding - Airport Manager
 2. Donna Forte - Lodging House License Renewal - 57 Winchester Street

MORE TIME ITEMS:

- A. Daron Friedman - Request to Acquire Property - Washington Street

Non Public Session
Adjournment



City of Keene, N.H.
Transmittal Form

October 22, 2018

TO: Planning, Licenses and Development Committee

FROM: Jack Wozmak, Airport Manager

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: 1.

SUBJECT: FAA Land Lease Memorandum of Understanding - Airport Manager

RECOMMENDATION:

Recommend that the City Manager do all things necessary to execute the Memorandum of Agreement with the Federal Aviation Administration in order to renew the existing four land leases at Dillant-Hopkins Airport and consolidate those leases into one Memorandum.

ATTACHMENTS:

Description

MOU

BACKGROUND:

The Federal Aviation Administration has four land leases, each for different equipment. One is the Localizer, Glide Slope and an Outer Marker, one is the Instrument Landing System, the Automated Weather Observation Station (AWOS) and the final one is the Medium Intensity Approach Lighting System Runway 02 (MALSR). While these current land leases have different end dates, the FAA wants to enter into one Memorandum of Agreement for all these systems in order to be more efficient. This MOA would supersede the leases, which begin to expire in 2019.

The term of the attached MOA would run until September 30, 2039.

The MOA has been reviewed by the City Attorney

MEMORANDUM OF AGREEMENT (MOA)

Between

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

And

THE CITY OF KEENE

MOA No. 69435Z-18-L-00135

SECTION 1 - OPENING

6.1.1-1 Preamble (JAN 2017)

This Agreement made and entered into by the CITY OF KEENE hereinafter referred to as "Airport", for itself, its successors and assigns, and the Federal Aviation Administration, hereinafter referred to as the "FAA".

6.1.3-1 Witnesseth (JAN 2017)

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, the parties consider it desirable to work in cooperation with each other in the technical installation and operation of air navigational aids; 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 on going operation of the Dillant-Hopkins Airport.

Whereas, this agreement supersedes or succeeds Leases No. **DTFA12-02-L-40523, DTFA12-00-L-40461, DTFA12-90-L-R1994**, and all other previous agreements between the parties for the property described in this document.

Now, therefore, the parties mutually agree as follows:

SECTION 2 - TERMS

6.2.1-1 Purpose (APR 2005)

It is understood and agreed that the use of the herein described premises, known as Dillant-Hopkins Airport, shall be related to the FAA's activities in support of Air Traffic Operations.

6.2.5-1 Terms and Conditions (JAN 2012)

It is mutually understood and agreed that the Airport requires FAA LOC, GS, OM, AWOS, MALSR in order to operate their business and that the FAA requires navigation, communication and weather aid facilities at the Airport in order to support Air Traffic Operations. Thus, in the interest of both parties it is hereby agreed that 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 for the term commencing on **October 1, 2019** and continuing through **September 30, 2039**. The FAA can terminate this agreement, in whole or part at any time by giving at least (30) days' notice in writing. Said notice shall be sent by certified or registered mail.

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. And the right to grading, conditioning, and installing drainage facilities, seeding the soil of the premises, and removing all obstructions from the premises which 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. And 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. And 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.

E. The Lessor agrees to maintain access to both the Central Processor and the sensor site, including the timely removal of snow.

F. The lessor also agrees to maintain conditions around the sensor site to include mowing or other removal of vegetation, keeping vegetation within 100 feet of the sensor site less than ten inches in height; and keeping trees or other vegetation within airport property but not beyond a 500 foot radius of the wind tower, below an elevation of 499' MSL.

6.2.6 Consideration - No Cost (AUG 2002) - Alternate I (AUG 2002)

The Government shall pay the City of Keene no monetary consideration in the form of rental. 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 hereby leased.

6.2.9 FAA Facilities (APR 2005)

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".

The Airport grants to the FAA the right and privilege to cut or remove at its discretion any or all trees inclusive of brush and undergrowth from the tracts of land identified as "Outer Marker" in Exhibit "A" in the interests of maintaining the operational integrity of the existing and/or future facilities located thereon. The natural growth cut under this provision will become the property of the FAA and may be disposed of as deemed necessary.

The Airport agrees to perform snow removal in an area described as 50 feet wide, beginning at the base of the Glide Slope Antenna and gradually widening to 200 feet at a distance of 1,000 feet in the direction of the approach end of the instrument runway.

6.2.10 MALSR

In order to insure the continuing proper operation of the MALSR facility, the Airport shall prevent the erection of any structure or the natural growth of trees, brush, etc., that will cause that structure or natural growth to:

(a) Protrude in an area herein referred to as the light plane. For obstruction clearance purposes this light plane is defined as rectangular in shape, 400 feet wide and symmetrically located about the MALSR centerline. It shall start at the first steady burning light station.

(b) Prevent obstructions to a clear line of sight from any point on a plane 1/2 degree below the Glide Slope and extending 250 feet each side of Runway 11 centerline, for a distance of 1600 feet in advance of the required light station.

SECTION 3 - GENERAL CLAUSES

3.2.5-1 RE Officials Not to Benefit (APR 1996)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this lease, or to any benefit arising from it. However, this clause does not apply to this lease to the extent that this lease is made with a corporation for the corporation's general benefit.

6.3.5 Title to Improvements (APR 2005)

Title to the improvements constructed for use by the FAA during the life of this Agreement shall be in the name of the FAA.

6.3.6 Funding Responsibility for FAA Facilities (JAN 2017)

The Airport agrees that any and all Airport requested relocation(s), replacement(s), or modification(s) of any existing or future FAA navigational aid or communication system(s) necessitated by Airport improvements or changes will be at the expense of the Airport. In the event that the Airport requested changes or improvements interferes with the technical and/or operational characteristics of the FAA's facility, the Airport will immediately correct the interference issues at the Airport'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 Airport or the FAA, funding responsibility shall be determined by mutual agreement between the parties, and memorialized in a Supplemental Lease Agreement.

6.3.18 Restoration Clause Alternate A for On-Airport Leases and MOA (4/2010)

The FAA shall surrender possession of the Premises upon the date of expiration or termination of this MOA. Before such expiration or termination, the FAA shall, if requested by the owner and determined by the RECO to be in the best interest of the Government, restore the Premises to as good condition as that existing at the time of the FAA's initial entry upon the Premises under this MOA or a previous agreement or lease, except for ordinary wear and tear or damage by natural elements. The FAA 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 owner, so long as determined by the RECO to be in the best interests of the Government.

No Implied Obligations:

Any obligation of the FAA under this MOA that requires the expenditure or obligation of funds is subject to the availability of funds. The FAA shall incur no liability under the MOA until funds that may be used for the purpose are appropriated. No provision in this MOA shall be interpreted to require an expenditure of obligation in violation of the Anti-Deficiency Act, 31 U. S. C. 1341.

6.3.25 Quiet Enjoyment (OCT 1996)

The Lessor 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.

6.3.28-2 Interference with FAA Operations (JAN 2017)

The Airport agrees not to erect or allow to be erected any structure or obstruction of any kind or nature within the Airport's boundaries that the FAA determines may interfere with the proper operation of the facilities installed by the FAA. The FAA and the Airport agree that such action(s) would not be in the best interest of the Airport or the FAA.

6.3.36 Subordination, Nondisturbance and Attornment (JAN 2017)

A. The Government agrees, in consideration of the warranties and conditions set forth in this clause, that this Lease is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this Lease. Based on a written demand received by the RECO, the Government will review and, if acceptable, execute such instruments as Lessor may reasonably request to evidence further the subordination of this Lease to any existing or future mortgage, deed of trust or other security interest pertaining to the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by Lessor if such easement does not interfere with the full enjoyment of any right granted the Government under this Lease.

B. No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this Lease so long as the Government is not in default under this Lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this Lease becomes subordinate, or in a separate non-disturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the RECO promptly upon demand.

C. In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the Lessor under this Lease, so as to establish direct privity of estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Government; provided, further, that the RECO and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this Lease, or other writings, as shall be necessary to document the foregoing relationship.

D. None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.

6.3.37 Notification of Change in Ownership or Control of Land (JUL 2017)

If the Owner 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 Owner or Owner'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.

SECTION 4 - FINANCIAL CLAUSES - Not applicable

SECTION 5 - DESIGN AND CONSTRUCTION CLAUSES - Not applicable

SECTION 6 - GENERAL BUILDING REQUIREMENTS AND SPECIFICATIONS CLAUSES - Not applicable

SECTION 7 - SERVICES, UTILITIES, AND MAINTENANCE CLAUSES - Not applicable

SECTION 8 - ENVIRONMENTAL OCCUPATIONAL SAFETY AND HEALTH CLAUSES

6.8.1 Hazardous Substance Contamination (JUL 2017)

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 Agreement. The Airport agrees to remediate or have remediated at its sole cost, any and all other hazardous substance contamination found on the FAA facility premises. The Airport also agrees to save and hold the U.S. Government harmless for any and 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 on the attached FAA "List of Facilities."

SECTION 9 - SECURITY CLAUSES - Not applicable

SECTION 10 - CLOSING

6.10.1 Notices (JUL 2017) - Alternate I (JUL 2017)

All notices/correspondence shall be in writing, reference the MOA number 69435Z-18-L-00135 and be addressed as follows:

TO THE AIRPORT OWNER
The City of Keene
City Hall
3 Washington Street
Keene, NH 03431

TO THE GOVERNMENT
Federal Aviation Administration
Real Estate & Utilities Group, 620ALO-BOS
1200 District Avenue
Burlington, MA 01803

6.10.3-4 MOA Signature Block (JUL 2017)

The Airport and the FAA hereby agree to the provisions outlined in this agreement as indicated by the signatures herein below of their duly authorized representative (s). This agreement is effective upon the date of signature by the last party thereof.

THE CITY OF KEENE

By: _____

Print Name: _____

Title: _____

Date: _____

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

By: _____

Print Name: _____

Title: Real Estate Contracting Officer

Date: _____

SECTION 11 - ATTACHMENTS EXHIBITS/SPECIAL STIPULATIONS

Attachment List/Exhibit List

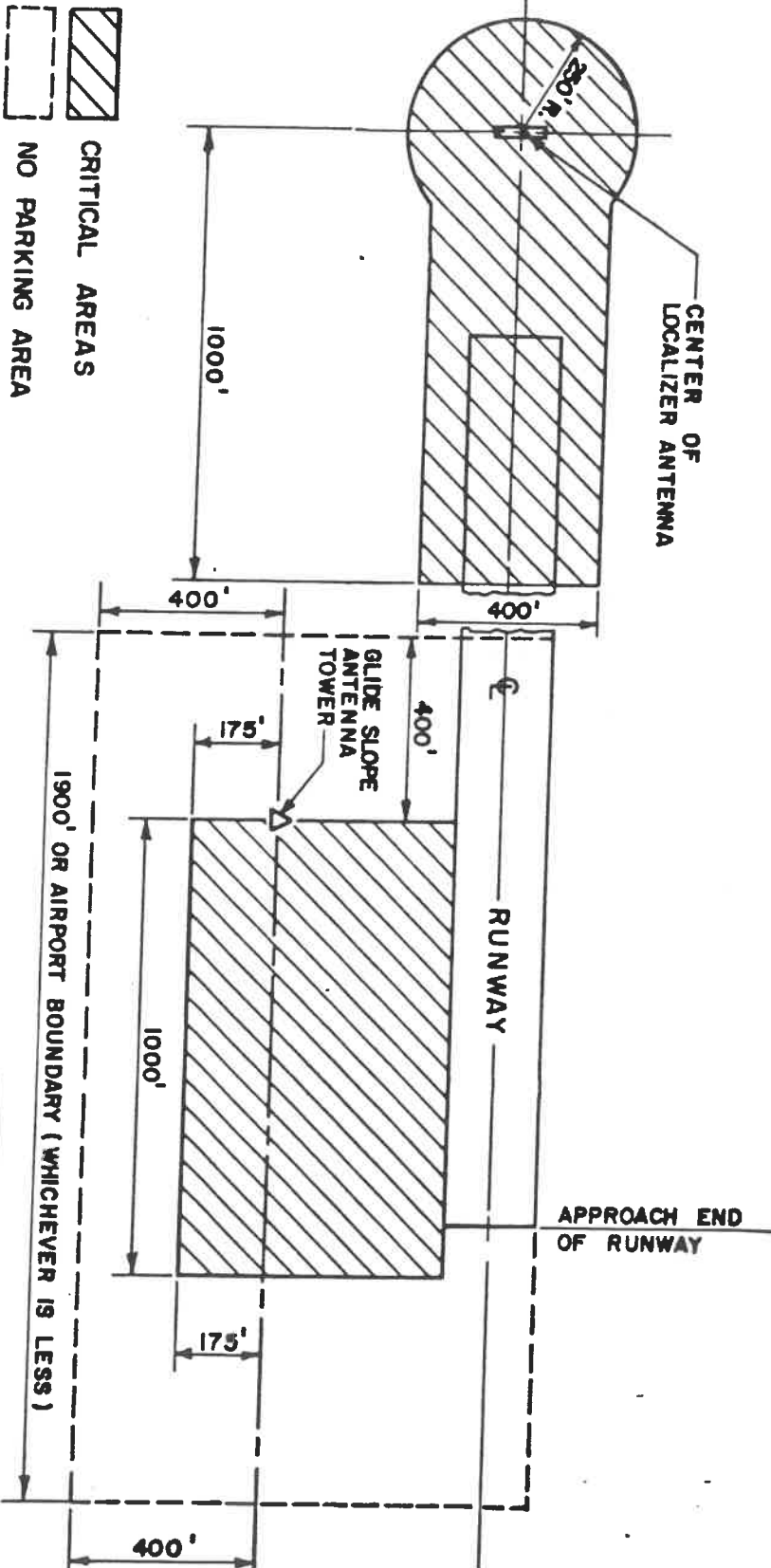
| Number | Title | Date | Number of Pages |
|--------|---|---------|-----------------|
| 1 | MOA List of Facilities & Exhibits | 10/1/19 | 1 |
| 2 | EXHIBIT "A" Outer Marker & DR. NO. 1-A-3076 | | 2 |
| | | | |

Outer Marker

The right to construct an Outer Marker facility on land described as follows:

Beginning at a point in the center of Sandy Lake Road, said point being the southwest corner of the parcel herein described, and also S 79° - 39' E 160.17 feet from an iron pin marking the corner of said Ballou's Land and Brokenshire's Land, thence N 82° - 31' E 76.27 feet along the traveled way to a point; said point being the center line of Runway 2- 20 projected southerly, thence N 86° - 38' - 30" E 75.45 feet along the traveled way to a point; thence N 3° E 141.66 feet parallel to and 75.0 feet east of the projected center line of runway 2-20 to an iron pin, thence N 87° W 150.00 feet to an iron pin, thence S 3° W 163.88 feet to the point of beginning. Containing 0.52 of an acre

All bearings being True North.



C. S. CO., NO. 44860 57799

| NO. | TITLE, GENERAL | REVISION | DATE | CKD. |
|-----|-----------------|----------|---------|------|
| 3 | LOCALIZER AREAS | | 8-6-68 | E.V. |
| 2 | LOCALIZER AREAS | | 7-10-61 | M/M |
| 1 | TITLE, GENERAL | | 10-4-60 | TCM |

FEDERAL AVIATION AGENCY
 EASTERN REGION NEW YORK, N. Y.

INSTRUMENT LANDING SYSTEM
CRITICAL LANDING AND NO PARKING AREAS

DR. BY *W. S. Guido* DATE 4-13-50
 CK. BY *W. S. Guido* DR. NO. 1-A-3076



External Communication
Transmittal Form

October 4, 2018

TO: Planning, Licenses and Development Committee

FROM: Donna J. Forte, Owner

THROUGH: Patricia A. Little, City Clerk

ITEM: 2.

SUBJECT: Donna Forte - Lodging House License Renewal - 57 Winchester Street

ATTACHMENTS:

Description

Communication - Forte

BACKGROUND:

Donna Forte, the owner of a lodging house at 57 Winchester Street is requesting a renewal of their license. The inspections from the Fire Department and Community Development Department have occurred.

Donna Forte

319 Sugar Hill Road

Hopkinton NH 03229

I, Donna J Forte owner of 57 Winchester St respectfully request a continuation
Of my Lodging House License for 2018-2019 at location of 57 Winchester St.

Please find the application and permit fee for renewal.

Thank you

A handwritten signature in cursive script that reads "Donna Forte". The signature is written in black ink and is positioned above the printed name.

Donna Forte



APPLICATION FOR OPERATION OF A LODGINGHOUSE

(Please print or type)

Date 10/04/2018 Location of Lodginghouse 57 Winchester St.

Identify local or national Fraternity or Sorority that members are pledged to (if applicable) _____

Property Owner Donna Forte Business Phone 603-352-5512

Address 319 Sugar Hill Hopkinton NH Home Phone 603-908-4078

Operator/Resident Agent Brianna Classer Business Phone 603-724-4138

Address 956 Hatfield Rd Hopkinton NH Home Phone _____

Number of Persons Authorized to reside on premises 16

I hereby certify that the information listed above is complete and accurate:

Donna Forte
Signature of Property Owner

Donna J Forte
Name (Printed or Typed)

Brianna Classer
Signature of Operator/Resident Agent

BRIANNA CLASSER
Name (Printed or Typed)

I hereby certify that the above named Sorority or Fraternity is duly recognized by Keene State College, and is in good standing with the College:

Signature of College Representative

Name and Title (Printed or Typed)

(For Office Use Only)

Date Received 10/4/18 Action Taken _____

Recommendations/Requirements

Police _____

Fire _____

Code Enforcement _____

City Clerk

165.00