



**Stevensville Town Council Meeting  
Agenda for  
THURSDAY, JUNE 23, 2022  
7:00 PM  
206 Buck Street, Town Hall**

1. Call to Order and Roll Call
2. Pledge of Allegiance
3. Public Comments (Public comment from citizens on items that are not on the agenda)
4. Approval of Minutes
  - a. [Town Council Meeting Minutes 06/09/2022](#)
5. Approval of Bi-Weekly Claims
  - a. [Claims #17755-#17778](#)
6. Administrative Reports
7. Guests
8. Correspondence
9. Public Hearings
10. Unfinished Business
  - a. [Discussion/Decision: ILmar Properties LLC, Subdivision Exemption Application](#)
  - b. [Discussion/Decision: Resolution 505, Process for Selling Stevensville Airport Millings](#)
11. New Business
  - a. [Discussion/Decision: Mayor's Request to Explore and Evaluate the Benefits and Opportunities to the Community Afforded by the Federal Aviation Administration's \(FAA\) Airport Investment Partnership Program \(AIPP\)](#)
  - b. [Discussion/Decision: Motion to Approve Morrison Maierle to Apply for ARPA Grant for Water/Septic at the Airport](#)
  - c. [Discussion/Decision: Consent to the Mayor's Appointment of Brian Germane to the Airport Board](#)
  - d. [Discussion: Cemetery Guidelines Pertaining to Riverside Cemetery and Monument Markers](#)
14. Board Reports
13. Town Council Comments
12. Executive Report
15. Adjournment

## **Welcome to Stevensville Town Council Chambers**

We consider it a privilege to present, and listen to, diverse views.

It is essential that we treat each other with respect.

We expect that participants will:

- ✓ Engage in active listening
- ✓ Make concise statements
- ✓ Observe any applicable time limit

We further expect that participants will refrain from disrespectful displays:

- ✗ Profanity
- ✗ Personal Attacks
- ✗ Signs
- ✗ Heckling and applause

## **Guidelines for Public Comment**

Public Comment ensures an opportunity for citizens to meaningfully participate in the decisions of its elected officials. It is one of several ways your voice is heard by your local government. During public comment we ask that all participants respect the right of others to make their comment uninterrupted. The council's goal is to receive as much comment as time reasonably allows. All public comment should be directed to the chair (Mayor or designee). Comment made to the audience or individual council members may be ruled out of order. Public comment must remain on topic, and free from abusive language or unsupported allegations.

During any council meeting you have two opportunities to comment:

1. During the public comment period near the beginning of a meeting.
2. Before any decision-making vote of the council on an agenda item.

Comment made outside of these times may not be allowed.

Citizens wishing to speak during any public comment period should come forward to the podium and state their name and address for the record. Comment may be time limited, as determined by the chair, to allow as many people as possible to comment. Comment prior to a decision-making vote must remain on the motion before the council.

**Thank you for observing these guidelines.**

**File Attachments for Item:**

- a. Town Council Meeting Minutes 06/09/2022

# Stevensville Town Council Meeting Minutes for

**THURSDAY, JUNE 09, 2022, 7:00 PM**

**206 Buck Street Town Hall**

1. Call to Order and Roll Call

Mayor Gibson called the meeting to order, Councilmembers Barker, Brown, Michalson, and Wolff were all present.

2. Pledge of Allegiance

3. Public Comments (Public comment from citizens on items that are not on the agenda)

NONE

4. Approval of Minutes

a. Meeting Minutes 05/26/2022

Mayor Gibson: introduced meeting minutes for 5/26/22

Councilmember Barker: make a motion to approve meeting minutes, 5/26/22.

Councilmember Wolff: 2nd

Mayor Gibson: motion and a 2<sup>nd</sup>. Council discussion? Public Comment? Seeing none, Jenelle please call for the vote.

Councilmember Barker: aye.

Councilmember Brown: aye.

Councilmember Michalson: aye.

Councilmember Wolff: aye.

Mayor Gibson: passes 4-0

5. Approval of Bi-Weekly Claims

a. Claims #17727-#17749

Mayor Gibson: introduced new bi-weekly claims.

Councilmember Michalson: make a motion to approve #17727-#17749.

Councilmember Barker: 2<sup>nd</sup>.

Mayor Gibson: motion and a 2<sup>nd</sup>. Council discussion? Public comment? Seeing none, Jenelle please call for the vote.

Councilmember Barker: aye.

Councilmember Brown: aye.

Councilmember Michalson: aye.

Councilmember Wolff: aye.

Mayor Gibson: passes 4-0

6. Administrative Reports

Mayor Gibson: introduced administrative reports, reminded the council that the reports are in their packets.

a. Airport

b. Building Department

c. Finance

d. Fire Department

e. Police Department

f. Public Works

7. Guests

NONE

8. Correspondence

NONE

9. Public Hearings

NONE

10. Unfinished Business

NONE

11. New Business

a. Discussion/Decision: ILamar Properties LLC, Subdivision Exemption Application

Mayor Gibson: introduced new business item a. asked the council for their permission to let the developers give their presentation and then the town attorney, Mr. Overstreet to give a brief presentation and then we will go to public comment if there is any and of course then come back for discussion, questions. Is that okay with council?

Councilmember Michalson: yes.

Mayor Gibson: with that we will start with Mr. Kellogg, Mr. Cyr.

Jeff Cyr: PCI representing Jeff Jessop with Ilmar Properties. What we are proposing is an aggregation of lots on Pine Street the aggregation would be of lots 1, 2, 3, 4, 17, 18, 19 and 20. The town site of Stevensville block 10 and lot 2 of block 5 May Addition. This is a required aggregation as the town code requires under section 10-173 C that states basically that all non-conforming lots are required to be aggregated, the eight lots in town site block 10 are all non-conforming lots under the current zoning. They are all under the 10,000 square feet in size, so these are non-conforming lots, the stated section of the development code requires us to come before council and request that these be aggregated prior to anything be developed on them so that is what we are here at this meeting doing. I believe that there is a map showing the lot aggregations, it shows the existing parcels as they currently are, or the existing lots as they currently are. Along with the boundaries that we would like to have removed these are all lots within the town of Stevensville we would like to remove these boundaries, so that this can be developed within the required zoning as it is zoned R-2 currently in the town of Stevensville. That is pretty much how this stands.

Mayor Gibson: thank you. you are proposing 11 four plex's, correct?

Jeff Cyr: eventually we may be doing that, everything that is proposed will be in the R-2 zoning district.

Mayor Gibson: you did say 11 four plex's.

Jeff Cyr: that is possible what is going in there, prior to this we went through the zoning process to change the zoning and there was a drawing that showed something like that and that has been through the zoning process and hearing.

Greg Overstreet, City Attorney: I will be very brief because I can be. The developer in his application cited a statute considering the exemption it is 76-3-207 (f) and it reads and I quote "aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the parcels have been eliminated" I turn your attention to the application and you are not going to see a certificate of survey in there and to take care of the possibility that it was a last minute submittal that is not an issue I have an email from May 24<sup>th</sup> with the developers attorney which I said to her "I wanted to memorialize one of the things that you said that the materials your client wishes the town council to consider consists of the subdivision extension application" which is what you have, correct me if I am wrong I did not hear from her. There was a map that was submitted and it is not a certificate of survey, because this is important issue I wanted to be 100% correct, so I got a hold of the executive director with the league of cities and towns and their general council, both are experts in land use, and I asked them to review the application and to validate my initial impression which was that there was no required certificate of survey, they both concluded that the certificate of survey is required and that it had not been presented and that they helpfully provided me regulation that, very long regulation, that described what a certificate of survey has to have. It has to have among other things a surveyor's name. I actually pulled up on the Ravalli County deed site, the last deed that was filed, which ever day I looked at it, the sample one does indeed say certificate of survey. It is very clear what a certificate of survey is, and it is also clear that there is not one in this application, so I believe it would be unlawful at this point to approve this with out a certificate of survey. I can answer any questions you may have.

Mayor Gibson: thank you. we will after public comment we will have council make motions or ask questions if they would like of PCI or Mr. Overstreet or department heads. Is there any public comment at this time?

PUBLIC COMMENT:

Tawnya Dockens: I live across the street from this. Gave public comment on the drainage issues in this area. I just think that if you are going to put in houses there it is going to be a lot of pressure on that little lot. In 2019 people's basements flooded. I have had to redo my pipes. It seems like a lot of pressure on that land.

Dave: one lot up from mine. Gave public comment on the swamp area around the proposed Pine Street Development. It routinely floods, you look at Spring Street, about 5 years ago they built houses and they had to build that up and that is displacing that water into the street and pushing up the street.

Leanna Rodabaugh: 204 Ravalli Street. Gave public comment on the land, that land has been vacant for so long, no one has been stupid enough to develop that property. There is no reason to develop this property. There are other areas in this town to build on, why build on a swamp.

Mayor Gibson: any further public comment? Seeing none, council are there any questions?  
Councilmember Brown?

Councilmember Brown: maybe you can answer them Mayor or maybe the attorney, I did read through their exemption and what they claimed on their form, and I felt that it did comply with that, but I have a couple of concerns. A year ago, I went back in the minutes, and they did get classification in R-2, but I did not see any supporting documents with regards to if there are any deed restrictions or covenants. Any easements that we should be concerned with, I know that there is one historical ditch in that area, was the town provided with any of that information to review?

Mayor Gibson: to my knowledge they went through the Planning & Zoning Board, and they did get approved for R-2 like you said, other than that I have not seeing anything like that.  
Councilmember Wolff?

Councilmember Wolff: I would like, and I would presume that Mr. Overstreet or the developer would have to answer this, you see the term "townhome development" and my question is in MCA they talk about condominiums, and these are four-plex's. What is the definition, are there definition differences?

Mayor Gibson: I think that the definition changed in the legislature, but you can correct me if I am wrong Mr. Overstreet, legislation did a lot of things last time and I believe they classified four-plex's as town homes is that correct?

Greg Overstreet: basically, but I want to be clear that the nature of the buildings whether they are townhomes or four-plex's is not at issue right now because the question is whether there is a certificate of survey to allow an aggregation, so I do not want the record to be muddled. It is a very good question, but I do not want someone to look at the record this evening and this had to do with townhomes, and it doesn't that is not relevant at this point.

Councilmember Barker: just seeing some history of some other complexes that this particular company has put in right behind ACE Hardware is a good example of building up on a wet land. I am looking out my window along with several others that are on that same area that had to be built up at least five feet. Things that they say they are going to take care of when they come in are not necessarily taken care of. We have a dead-end street and there were some concerns of water displacement, and it is trickling down the street. To have something else built on swamp land again where is the water going to go. Obviously, they are looking for the exemptions, but it really makes it tough for those living down below and I think that it is going to get even worse if we put in 11 four-plex's in there. That is a small area there are 16 units behind our house and it is a small area, there is no fire turnaround in there so these are some things that we need to look at to.

Councilmember Michalson: I also reviewed the minutes of last year when the zoning went from R-1 to R-2 and one of the questions that was asked by Councilmember Shourd at the time, it was about a DEQ study being done. They said that would be done yet, I don't think that it has been, and I see that Mr. Kruse from Public Works brought this up along with areas of storm water, ground water, a study for the ground water issue of all the things going on this is the biggest issue of all because this gentleman here lives in the green house right behind it and Marilyn and I talked to him yesterday and it will be up 5 feet in his kitchen, water is around his house all year. If you build up it is going to impact everyone and what are they going to do. There are a lot of issues going on here.

Mayor Gibson: how would the council like to proceed?

Councilmember Brown: may I ask the attorney a question? You just said that this is not giving the okay to build, it is just to record a plat, a certificate of survey amended plat to aggregate the property into one, is that correct?

Greg Overstreet: yes, it is the application in front of you is to aggregate the parcels into one and I don't want to discount any of the concerns that have been raised, but I need to state again for the record that the only item up on this application is whether there will be an aggregation. Drainage is not part of this evenings; I just want to be clear.

Mayor Gibson: but you did say is that it is not complete.

Greg Overstreet: it is missing the required certificate of survey, that is correct.

Councilmember Brown: I think what the attorney is trying to say is the official record set plat is not in our packet.

Greg Overstreet: it would not be a plat that you have it would be a certificate of survey and that is different than a plat. They look physically similar, but different.

Councilmember Brown: true. I just through that out, because working with routine if it is lots in a subdivision she usually calls up and records as some kind of amended subdivision plat, so that is why I through that word out. Yes, there needs to be the acknowledgement the instruction on the three copies. So, they are actually missing the actual record set to present.

Greg Overstreet: to be specific, what is missing is a certificate of survey which is different.



Councilmember Wolff: I really feel at this point without that and not going into all the details of this development, the only thing that we can do is to table this.

Mayor Gibson: before we do that, we will be fair, Mr. Cyr do you want to step up if you have something to say, usually we would not allow this, but you can.

Jeff Cyr: what we are applying for is an exemption affidavit, this is just to allow us to create a plat which the town would be required to sign, and I believe that the executive officer, the mayor, would be the one signing that. This is a procedure that we go through in the state of Montana we apply for an exemption affidavit, so we are allowed to move forward with this process, and we prepare the plat and move the plat through the process this is a standard procedure, it is a plat and since this is an existing plat we have to go through an amended plat process to amend the plat we can not get a certificate of survey on plated ground, that is a requirement per state law.

Mayor Gibson: thank you, again, I talked to you and the developer back in early February it is not up to the mayor we have been through that many times; it is up to the council. I met with Mr. Jessop, met with you and I made it very clear that this is not how this town operates so please no more of that, thank you. Councilmember Wolff would you like to make a motion.

Councilmember Wolff: I would like to make a motion, based on the fact that we are missing a document in this application, the certificate of survey and I feel the motion is to table this until that is produced.

Councilmember Michalson: 2<sup>nd</sup>.

Mayor Gibson: there is a motion and a 2<sup>nd</sup>, any further discussion? Seeing none, Jenelle please take the vote to table.

Councilmember Barker: aye.

Councilmember Brown: I feel that it is a conflict of interest for me to vote on this so I will abstain.

Councilmember Michalson: aye.

Councilmember Wolff: aye.

Mayor Gibson: 3-0 with one abstaining. Thank you.

b. Discussion/Decision: Purchasing of Police Department Mobile Communication Radios

Mayor Gibson: introduced new business item b. asked the council for approval for Mac Sosa to present.

Mac Sosa, Police Chief: the issue that we currently have is the most valuable radios that the department has are commonly used on a construction site that being the reason that I can take two steps this way and not hear anything or I can take two steps this way and might catch something, and that is what we deal with whether we are at town hall, the schools or any of the

buildings. Town policy indicates that I must present several bids so that is what I have done. The reality is that it is anticipated over the next five years a trunking system will come to Ravalli County and when that happens there are only two radios that will comply with that trunking system and meet the demands of the frequencies those two are going to be Harris and Motorola. (A break down of the bids was provided to the council in their packet) Motorola is the Cadillac of radios and you can see they are the most expensive. We can put a band aid on it, we can prepare for it or we can correct the problem. Of course, I would like to see you approve the purchase of the one that would completely correct the problem those are P25 Radios. They are going to last 20-25 years. There is money in the budget, I pulled my actual, there is plenty of savings in the budget to accommodate this.

Mayor Gibson: thank you chief. Any discussion from the council before I go to public comment? Councilmember's Wolff?

Councilmember Wolff: I looked at this and with your budget surplus, I like how Chief Sosa laid this out. That was very good, and it made a lot of sense. And it looks like the L3 Harris Radios are going to be sufficient, I am curious if these new radios will offer more security when it is needed when officers are talking to each other, I remember people having police scanners and I am just curious if there is more security.

Mac Sosa: there is actually more security with P25 Radios so the others offer P25's and may have better reception, but when the trunking system comes, we only have to options.

Councilmember Michalson: knowing little or nothing about radios, are these compatible to Chief Motley. Can you interact at an accident scene?

Mac Sosa: I believe that the radios that Chief Motley has are pretty much 15 to 25 years old. They suffer the same situation that we do, they could be responding to a fire and two steps one way or two steps another way.

Councilmember Brown: I understand that we have fire department and police department is there a discount if we get more? Jeff if you are looking at replacing radios too, maybe a better discount.

Jeff Motley, Fire Chief: there may be a volume type discount, as a fire department we have been talking about this throughout Ravalli, it is going to be a huge number that is going to be needed, we have 26 radios, it is going to be huge. We take the approach can we go with all departments in the valley.

Councilmember Brown: thank you.

Mayor Gibson: good question, any public comment on the radios? Any further council discussion?

Councilmember Michalson: make a motion to purchase bid #4.

Councilmember Wolff: 2<sup>nd</sup>.

Mayor Gibson: motion and a 2<sup>nd</sup>. Any further discussion? Seeing none, Jenelle please take the vote.

Councilmember Barker: aye.

Councilmember Brown: aye.

Councilmember Michalson: aye.

Councilmember Wolff: aye.

Mayor Gibson: passes 4-0

c. Discussion/Decision: Consent to the Mayor's Appointment of Maureen O'Connor as the Town of Stevensville City

Mayor Gibson: introduced new business item c. Judge you have a statement in your packet, there are two things here consent and compensation. Judge is here, do you want to present?

Maureen O'Connor, City Court Judge: I think that I presented in my paperwork and if there are any question, I will take those.

Mayor Gibson: discussion? Do we have a motion?

Councilmember Wolff: I would like to make a motion to approve the appointment of Maureen O'Conner.

Councilmember Michalson: 2nd

Mayor Gibson: motion and a 2<sup>nd</sup>, public comment? Further discussion? Seeing none, Jenelle take the vote.

Councilmember Barker: aye.

Councilmember Brown: aye.

Councilmember Michalson: aye.

Councilmember Wolff: aye.

Mayor Gibson: passes 4-0

d. Discussion/Decision: Judicial Compensation for Town of Stevensville City Court Judge Maureen O'Connor

Mayor Gibson: introduced new business item d. you also have in your packet something from the judge, I talked briefly with the judge it is clear what she is asking for, you have been here six years? And again, if you were to approve this it would have to be approved in the budget. I explained to the judge, and she was okay with that, if it was approved tonight the compensation package would be retroactive to July 1<sup>st</sup>. with that is there any discussion? Councilmember Michalson?

Councilmember Michalson: I am all for a compensational raise and I think that she deserves one and she has not asked for one, but I would like to table this until we know what we have in the budget. We really don't know what is in there, if she is comfortable with that and once, we find out what we do have in the budget then we can bring the compensation package back to her and retroactively pay for that. I think that would work better for all parties.

Councilmember Barker: 2<sup>nd</sup> the tabled motion.

Mayor Gibson: we talked about this, and it is not that you do not deserve this.

Maureen O'Connor: I understand Mr. Michalson's point and I know that times are what they are, so I understand that the town has to look at their budget and know what those numbers are.

Mayor Gibson: thank you judge, we have a motion and a 2<sup>nd</sup> to table until we get to the budget and when it is approved will be retroactive to July 1<sup>st</sup>. Councilmember Barker?

Councilmember Barker: I just want to say that Maureen O'Connor has done a lot for the town since she has been here, and I know that we had a lot of outstanding cases, and she has been bringing those cases current and taking care of a lot of outstanding things. I do think that she is a big asset to our town.

Mayor Gibson: motion and a 2<sup>nd</sup> to table, until we go through the budget. Jenelle would you please take the vote.

Councilmember Barker: aye.

Councilmember Brown: aye.

Councilmember Michalson: aye.

Councilmember Wolff: aye.

Mayor Gibson: 4-0 to table.

e. Discussion/Decision: Resolution No. 505, a Resolution to Establish a Process for Selling Airport Millings

Mayor Gibson: introduced new business item e. this is being presented and proposed by Councilmember Wolff, airport manager Tim is here to answer questions.

Councilmember Wolff: due to important new information in regards to airport millings I would like to make a motion to table this agenda item until June 23<sup>rd</sup>.

Councilmember Michalson: 2<sup>nd</sup>.

Mayor Gibson: motion and a 2<sup>nd</sup>. Without seeing further discussion to table, Jenelle call for the vote.

Councilmember Barker: aye.

Councilmember Brown: aye.

Councilmember Michalson: aye.

Councilmember Wolff: aye.

Mayor Gibson: passes 4-0 to table.

f. Discussion/Decision: Resolution No. 506, A Resolution Adopting Infrastructure Access Fees for Water and Sewer Services

Mayor Gibson: introduced agenda item f. you have information in your packet, Public Works director is here. To make this clear this only has to do with new builds. Meters have gone up. Any questions? Councilmember Wolff?

Councilmember Wolff: I was just trying to make sense of the size of water pipes, and I am wondering what is the typical size of the hook up for R-1 versus R-2?

Steve Kruse, Public Works Supervisor: a typical size for a residents is  $\frac{3}{4}$  inch which is the majority of what we have in town now and what has been proposed. When you go up in size you are looking at more commercial some folks have 1 inch if they irrigate. Could I say a few things about this topic? I think that the need for this IAF, the intent of these funds are to go into a fund. My background is in the private sector, and we call it a deferred asset replacement fund, in the government parlance it is a reserve. It is for when something goes bump in the night six years from now and it is the intention to grow some reserve. The other part of it to understand, is when someone comes up to build a new house or build a multi-unit project like we were discussing earlier, what that does to the town is increases the roads to be plowed, miles of sewer line, water line, police protection, fire protection and I feel that it is extremely important to be far sided enough to be building that nest egg. And currently, I believe in your packet we are 50% of what Hamilton is and we limit ourselves at only looking at water and sewer and if you look at Hamilton's what you will see typically is that you look at all of the functions of the town.

Mayor Gibson: we have had that conversation and we will be looking at it in the future.

Councilmember Michalson: I make a motion to approve, Resolution 506.

Councilmember Barker: 2<sup>nd</sup>.

Mayor Gibson: motion and a 2<sup>nd</sup>. Any further discussion? Public comment? Seeing none, Jenelle call for the vote.

Councilmember Barker: aye.

Councilmember Brown: aye.

Councilmember Michalson: aye.

Councilmember Wolff: aye.

Mayor Gibson: passes 4-0

g. Discussion/Decision: Approval of Special Event Permit for Western Heritage Days

Mayor Gibson: introduced new business item g.

Councilmember Michalson: I make a motion to approve.

Councilmember Wolff: 2nd

Mayor Gibson: motion and a 2<sup>nd</sup>. Council discussion? Public comment?

Victoria Howell: chair for Western Heritage Days. When I applied and I totaled up fees, compared to last year it was \$150.00, this year \$715.00 and I will pay it because we have to have the event, in the future I would like to think about that, this is not a for profit event. Any money that we make goes back into our community all of the money that Western Heritage Days has been making has specifically helped children, kids backpack program. No one is making any money on this, I thought that this was an excessive increase.

Mayor Gibson: correct me if I am wrong, the fees were increased by the former council.

Victoria Howell: I know that, since it wasn't you maybe you feel the same way that I do and may want to look at that.

Mayor Gibson: any further public comment? Seeing none, any further council discussion, Jenelle please take the vote.

Councilmember Barker: aye.

Councilmember Brown: aye.

Councilmember Michalson: aye.

Councilmember Wolff: aye.

Mayor Gibson: passes 4-0.

h. Discussion/Decision: To Rescind Ordinance 166, an Emergency Ordinance of the Town of Stevensville

Mayor Gibson: introduced new business item h. presented by councilmember Michalson, to me this should be fairly simple if you are aware the governor canceled this a year ago March, I will let Bob go into it.

Councilmember Michalson: make a motion to rescind Ordinance 166.

Councilmember Wolff: 2<sup>nd</sup>.

Mayor Gibson: motion and a 2<sup>nd</sup>. Council discussion? Public comment?

Councilmember Brown: I believe that we have one email for public comment on this.

Mayor Gibson: did we Jenelle, I do no recall seeing one.

Jenelle Berthoud, Town Clerk: Councilmember Brown do you know who that was from?

Councilmember Brown: Jim Crews.

Jenelle Berthoud: I do not have anything in my emails, I had 156 emails when I came into today and I did not see one unless it was just sent.

Mayor Gibson: there was an email, but it was not requesting that it be read here to my knowledge.

Jenelle Berthoud: let me check.

Mayor Gibson: any further discussion? Jenelle, please take the vote.

Councilmember Barker: aye.

Councilmember Brown: aye.

Councilmember Michalson: aye.

Councilmember Wolff: aye.

Mayor Gibson: passes 4-0

12. Executive Report

Mayor Gibson: not much, as Mr. Kruse mentioned we will be brining forward some more proposals in relationship to making sure that the town does not loose money. that is really all that I have at this time. Good meeting.

13. Town Council Comments

NONE

14. Board Reports

Councilmember Michalson: P&Z Board, finished chapter 7. We have given that to Angela and then kick it to Commissioner Chilcott and have his people look at it and then back to Angela and then to City Leagues and Towns and they will review it and then bring it back to the council with public hearing for their approval.

Mayor Gibson: when it gets to that point it will need a public hearing, it is a big deal and then the growth policy is next.

15. Adjournment

**APPROVE:**

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**Steve Gibson, Mayor**

**ATTEST:**

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**Jenelle S. Berthoud, Town Clerk**



**File Attachments for Item:**

a. Claims #17755-#17778

\* ... Over spent expenditure

Claim	Vendor #/Name/ Check Invoice #/Inv Date/Description	Document \$/ Line \$	Disc \$	PO #	Fund Org Acct	Object Proj	Cash Account
17755	1722 Local Government Serices	520.00					
	AFR late fee						
	4661 06/08/22 AFR Late Fees March	130.00*			1000 410550	350	101000
	4661 06/08/22 AFR Late Fees April	130.00*			1000 410550	350	101000
	4661 06/08/22 AFR Late Fees May	130.00*			1000 410550	350	101000
	4661 06/08/22 AFR Late Fees June	130.00*			1000 410550	350	101000
17756	728 HDR ENGINEERING, INC.	2,951.15					
	Project support for Park Ave extension						
	1200430506 03/07/22 W-Park Ave extension suppo	2,951.15*			5210 430630	350	101000
17757	1797 Mountain Equipment Technology,	250.00					
	SCADA support for Wastewater Treatment Plant						
	3584 05/26/22 S-SCADA support for WWTP	250.00			5310 430610	331	101000
17758	16 MONTANA ENVIRONMENTAL LAB LLC	40.50					
	Sewer testing services						
	M2204963 05/31/22 S- Testing services	40.50*			5310 430610	355	101000
17759	1701 Cote and Associates, CPAs, PPL	405.00					
	May hours for FY 21 AFR						
	2728 06/01/22 Accounting / AFR Services FY21	405.00*			1000 410100	356	101000
17760	1871 HSM	1,531.20					
	Practice ammunition						
	48 06/09/22 PD- practice ammunition 40S4W	310.20*			1000 420100	227	101000
	48 06/09/22 PD- practice ammunition 223 RE	403.20*			1000 420100	227	101000
	50 06/09/22 PD- Duty ammunition (20)	817.80*			1000 420100	227	101000
17761	1691 Montana Law Enforcement	1,156.00					
	Registration and Lodging for Tirello & Schaffer for April						
	20973 04/08/22 PD- Registration N Tirello	400.00*			1000 420100	380	101000
	20973 04/08/22 PD- Lodging N Tirello	75.00*			1000 420100	380	101000
	20973 04/08/22 PD- Meals N Tirello	103.00*			1000 420100	380	101000
	20973 04/08/22 PD- Registration T Schafer	400.00*			1000 420100	380	101000
	20973 04/08/22 PD- Lodging T Schafer	75.00*			1000 420100	380	101000
	20973 04/08/22 PD- Meals T Schafer	103.00*			1000 420100	380	101000
17762	1282 Valley Irrigation	73.16					
	Father Ravalli Park Irrigation repair. Reroute for new play structure						
	IN063357 05/11/22 P- Irrigation repair	73.16			2987 460430	212	101000

\* ... Over spent expenditure

Claim	Vendor #/Name/ Check Invoice #/Inv Date/Description	Document \$/ Line \$	Disc \$	PO #	Fund Org Acct	Object Proj	Cash Account
17763	124 Montana League of Cities and FY 22-23 Membership Fee	890.15					
	ML00167 06/01/22 Annual Membership Fee FY 22-2	890.15*			1000 410550	330	101000
17764	1845 Thomson Reuters-West Clear online software	200.00					
	846435470 06/01/22 PD- Clear online software	200.00			1000 420100	331	101000
17765	1146 Motorola Solutions, Inc. NOVA Subscription Town Attorney & Police Dept Last payment was made in December 2021. Billing statements were emailed to to a former employees email address and were not received. This billing includes Jan-Jun 2022	2,625.00					
	17765 06/09/22 NOVA Subscription	525.00		PMS	1000 411100	352	101000
	17765 06/09/22 NOVA Subscription	2,100.00*		PMS	1000 420100	330	101000
17766	345 POOL & POND SUPPLY Pool pump and strainer Old unit failed after 30+ years	4,294.00					
	06/01/22 W- Pool pump & strainer	4,294.00*			1000 460445	212	101000
17767	285 BITTERROOT TREE SERVICE Tree spraying	1,236.50					
	648204 06/13/22 P- Tree spraying	1,236.50*			1000 460437	365	101000
17768	1691 Montana Law Enforcement Colten Wortman Law Enforcement Basic Course #178	1,545.00					
	21188 06/15/22 PD- C Wortman lodging	264.00*			1000 420100	380	101000
	21188 06/15/22 PD- C Wortman meals	1,236.00*			1000 420100	380	101000
	21188 06/15/22 PD- C Wortman taser training	45.00*			1000 420100	380	101000
17769	1696 First Call Computer Solutions, PD- Printer with Install and set up	1,154.98					
	06/14/22 PD- Xerox B30 5 printer	549.99*			1000 420100	210	101000
	06/14/22 PD- 550 sheet tray	199.99*			1000 420100	210	101000
	06/14/22 PD- Install and setup	405.00*			1000 420100	210	101000
17770	1031 MR ASPHALT, INC. Road repair, power pole (Mission, L&C Park)	5,017.00					
	3296 06/13/22 R- Road repair, power pole	5,017.00*			2820 430200	931	101000

\* ... Over spent expenditure

Claim	Vendor #/Name/ Check Invoice #/Inv Date/Description	Document \$/ Line \$	Disc \$	PO #	Fund Org Acct	Object Proj	Cash Account
17771	1873 Big Sky Racks, Inc	618.86					
	77544 06/16/22 PD- Electronic locking mounts	598.06*			1000 420100	212	101000
	77544 06/16/22 PD- spacer	1.80*			1000 420100	212	101000
	77544 06/16/22 PD- shipping & handling	19.00*			1000 420100	212	101000
17772	1823 Visa c/o Rocky Mountain Bank	11,536.06					
	05/06/22 P- pool skimmer nets	32.97*			1000 460445	212	101000
	05/10/22 A- Wrench & fasteners	32.31*			5610 430300	230	101000
	05/18/22 TH-Go Daddy	9.99*			1000 410550	330	101000
	05/17/22 C- AG spreader	259.00			1000 430900	212	101000
	05/18/22 TH-Adobe	50.97*			1000 410550	330	101000
	05/16/22 WW- Blower repair	218.71*			1000 430630	212	101000
	05/12/22 C-HP printer cartridge	100.99			1000 410360	210	101000
	05/04/22 W-PPE gloves for water	199.95			5210 430510	220	101000
	05/04/22 WW-PPE gloves for WW	199.95			5310 430610	220	101000
	05/03/22 Parks-Bitterroot Disposal	250.00			1000 460430	340	101000
	05/13/22 TH-Certified letter	4.33*			1000 410550	331	101000
	05/03/22 Bldg Dept-Bitterroot Disposal	48.13			2394 420531	340	101000
	05/15/22 TH- Bitterroot Disposal	105.50*			1000 410550	340	101000
	05/12/22 Adobe Subscription	50.97*			1000 410550	336	101000
	05/12/22 Admin First Call	400.00			1000 410550	356	101000
	05/12/22 PD First Call	400.00			1000 420100	356	101000
	05/12/22 Court First Call	110.00			1000 410360	356	101000
	05/12/22 Bldg First Call	110.00			2394 420531	356	101000
	05/12/22 FD First Call	110.00			1000 420410	356	101000
	05/12/22 Sewer First Call	535.00			5310 430610	356	101000
	05/12/22 Water First Call	535.00			5210 430510	356	101000
	05/15/22 Ravalli Electric- Airport	331.00*			5610 430300	340	101000
	05/10/22 FD- IPAD shield install	14.99*			1000 420410	210	101000
	05/10/22 FD- USB cable connector	24.95*			1000 420410	210	101000
	05/06/22 FD- Screen protector ipad	139.98*			1000 420410	212	101000
	05/10/22 FD-front seat #2511	596.00*			1000 420460	232	101000
	05/06/22 FD-Ipad pro case	166.90*			1000 420410	212	101000
	05/08/22 Verizon-Mayor phone	46.61			1000 410200	340	101000
	05/08/22 Verizon- PD cell phone	201.52*			1000 420100	340	101000
	05/08/22 Verizon- H20 cell phone	41.03			5210 430510	345	101000
	05/08/22 Verizon- Sewer cell phone	41.02			5310 430610	345	101000
	05/08/22 Verizon- Airport cell phone	84.12*			5610 430300	340	101000
	05/08/22 Verizon-Mobile internet	20.04*			5610 430300	340	101000
	05/08/22 Verizon Mobile internet ambula	9.94*			2230 420730	340	101000
	05/21/22 Spectrum- Admin	37.17*			1000 410550	340	101000
	05/21/22 Spectrum- Police	139.97*			1000 420100	340	101000
	05/21/22 Spectrum-Fire Dept	40.53			1000 420410	340	101000
	05/21/22 Spectrum-Eco Development	37.42*			2940 410550	340	101000

\* ... Over spent expenditure

Claim	Check	Vendor #/Name/ Invoice #/Inv Date/Description	Document \$/ Line \$	Disc \$	PO #	Fund Org Acct	Object Proj	Cash Account
	05/21/22	Spectrum-Water Dept	101.72*			5210 430510	340	101000
	05/21/22	Spectrum-Sewer Dept	101.72*			5310 430610	340	101000
	05/21/22	Spectrum-Pool	46.36*			1000 460445	340	101000
	05/12/22	C- Stamps jury mailing	174.00			1000 410360	311	101000
	05/04/22	TH-Harland Clarke checks	100.39*			1000 410550	210	101000
	05/17/22	TH- Ravalli Co Treasurer	24.40*			1000 410550	331	101000
	05/02/22	TH- First Call support	101.25			1000 410550	356	101000
	05/12/22	A- Mom's rental (tractor)	4,765.50*			5610 430300	230	101000
	05/02/22	PD- GoDaddy renewal	191.88*			1000 420100	340	101000
	05/02/22	TH- GoDaddy renewal Admin	191.88*			1000 410550	330	101000
17773		53 SUPER 1 FOODS	164.96					
	06/04/22	S- Distilled water for WWTP	5.12*			5310 430640	230	101000
	06/03/22	P- Hanging flower baskets	159.84			1000 460430	365	101000
17774		228 Norco, Inc.	23.79					
	67665 06/01/22	PW- Cylinder rental	23.79*			1000 430100	231	101000
17775		17 MONTANA SAWS LLC	69.50					
	05/19/22	PW-2 cycle mix	29.00*			1000 430100	231	101000
	05/24/22	FD-PPV fan parts & labor	40.50*			1000 420460	232	101000
17776		29 STEVENSVILLE NAPA AUTO PARTS	378.64					
	05/24/22	A- Socket	43.98*			5610 430300	230	101000
	05/24/22	A- rachet extension	61.52*			5610 430300	230	101000
	05/04/22	FD- 2 year battery	273.14*			1000 420460	232	101000
17777		1874 Allegra	504.52					
	Blue Sky Mt, LLC sign damage sustained from volunteer mowing grass at the Airport.							
	74320 06/15/22	A- Sign damage at Airport	504.52*			5610 430300	230	101000
17778		1787 Valli Information Systems, Inc.	602.04					
	Sewer On Line Monthly Maintenance, Web posting, manual postage, e-statements, etc							
	82689 05/31/22	S- Online Monthly Maintenance	75.00*			5310 430510	320	101000
	82689 05/31/22	S- OTC Monthly Maintenance	25.00*			5310 430510	320	101000
	82815 06/02/22	S- 1st image	145.00*			5310 430510	320	101000
	82815 06/02/22	S-Manual image	1.60*			5310 430510	320	101000
	82815 06/02/22	S-Web posting	9.13*			5310 430510	320	101000
	82815 06/02/22	S- Postage	316.10*			5310 430510	320	101000
	82815 06/02/22	S- Manual postage	13.70*			5310 430510	320	101000
	82815 06/02/22	S- ZRO Client customer field	3.40*			5310 430510	320	101000
	82815 06/02/22	S- E-text	0.50*			5310 430510	320	101000
	82815 06/02/22	S- Add Image	3.52*			5310 430510	320	101000

06/20/22  
16:45:37

TOWN OF STEVENSVILLE  
Claim Approval List  
For the Accounting Period: 6/22

Page: 5 of 5  
Report ID: AP100

\* ... Over spent expenditure

Claim	Check	Invoice #/Inv Date/Description	Vendor #/Name/	Document \$/ Line \$	Disc \$	PO #	Fund Org Acct	Object Proj	Cash Account
	82815	06/02/22	S- Add manual image		1.72*		5310 430510	320	101000
	82815	06/02/22	S- Foreign add image		0.12*		5310 430510	320	101000
	82815	06/02/22	S- E-statement		7.25*		5310 430510	320	101000
			<b># of Claims</b>	<b>24</b>	<b>Total:</b>				<b>37,788.01</b>

**File Attachments for Item:**

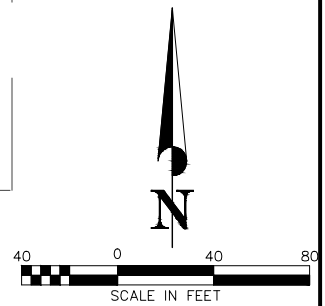
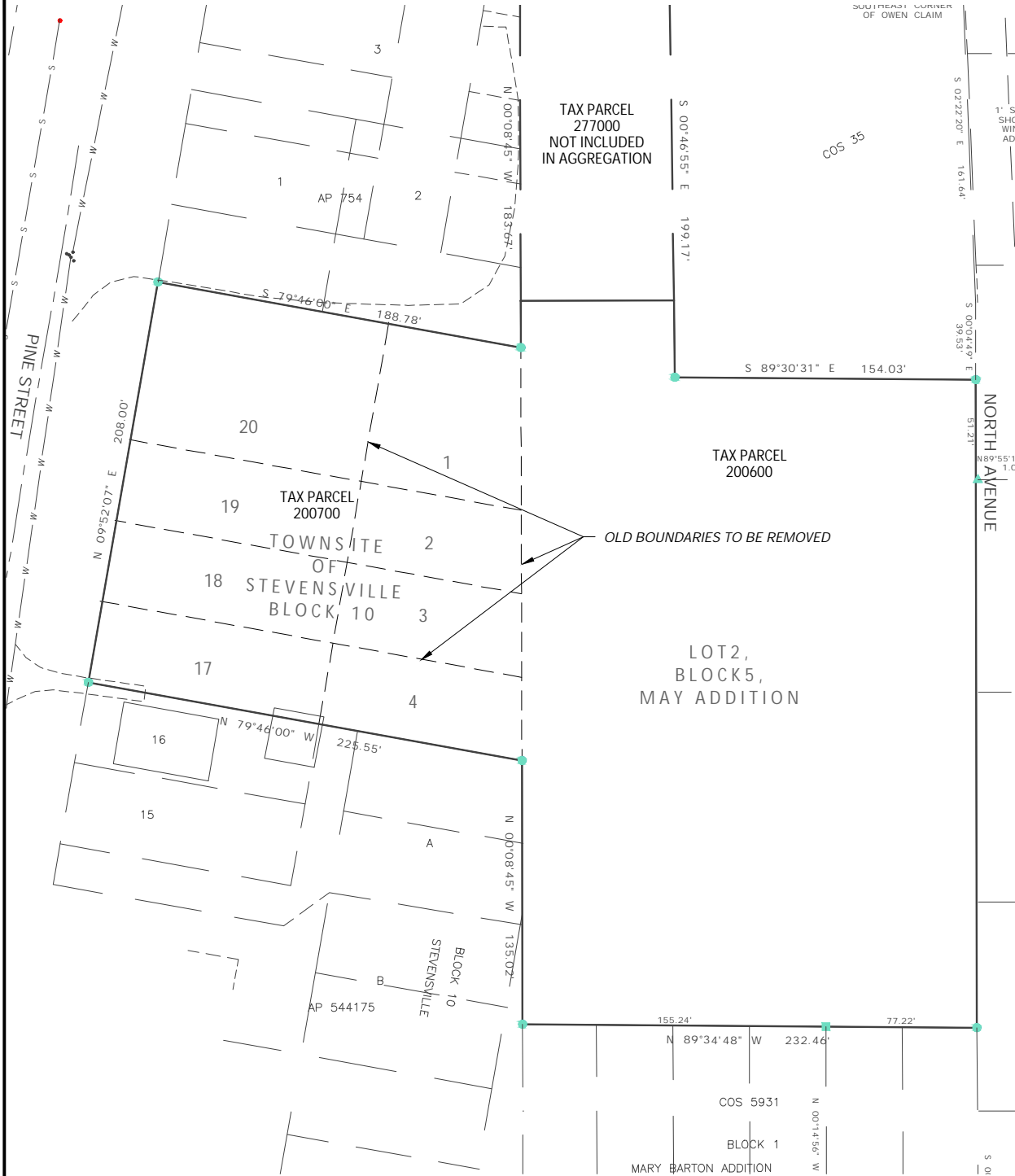
- a. Discussion/Decision: ILmar Properties LLC, Subdivision Exemption Application

# LOT AGGREGATION

A PORTION OF SECTIONS 26 & 27, T9N, R20W, P.M.M. ALSO BEING  
 A PORTION OF THE TOWNSITE OF STEVENSVILLE  
 RAVALLI COUNTY, MONTANA



VICINITY MAP





received  
5-11-22  
12:23pm

# Subdivision Exemption Application

## 1. Landowner/Consultant

**Landowner** Name: Lamar Properties LLC Daytime Phone: 406-360-0750

Mailing Address: P.O. Box 1032

City: Corvallis State: Montana Zip Code: 59828

Email: jmjconstructionltd@msn.com

**Consultant** Name: PCI Daytime Phone: 406-728-1880

Mailing Address: P.O. Box 1750

City: Missoula State: Montana Zip Code: 59806

Email: jeffc@pcimontana.com

## 2. Landowner Signatures (Boundary Line Relocations; all landowners must

sign) Full Name: Jeff Jessop Signature: 

Name: Jeff Jessop Signature: \_\_\_\_\_

## 3. Type of Exemption Requested (Please check all that apply)

- Boundary Line Relocation       Family Transfer  
 Agricultural Parcel       Mortgage Security  
 Utility Site

**Please see Ex. A.**

## 4. Property Description (Include all that apply)

County Tax ID Number (Parcel Number): 200600, 200700

Certificate of Survey Number: \_\_\_\_\_ Tract/Parcel: \_\_\_\_\_

Subdivision Name/Amended Plat Number: Portion of the Townsite of Stevensville  
Tract/Parcel: See attached Ex. B

Legal Description: Section Portions of Sec. 26 & 27 Township 9N Range 20W

### 5. **Prior Use of Subdivision Exemptions**

(If none, leave section blank.)

Tax ID/Parcel Number or Property Description etc.)	Exemption Used	Parcel Disposition (Sold, retain ownership, etc.)
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### 6. **Attachments**

- a) **Property Diagram:** Please find an 8 1/2" x 11" copy of the Certificate of Survey or Subdivision Plat/Amended Plat that clearly shows the existing boundary of the subject property(ies) and the proposed new configuration(s). The existing boundary is shown with a dashed line and the new boundary with a solid line, and label boundary lines as "existing" and "proposed."

**Please See Ex. C**

- b) **Subdivision Evasion Criteria:** The applicant has attached written responses to the general Subdivision Evasion Criteria from the Montana Code Annotated and the specific evasion criteria applicable to the applicant's exemption request.

**Please See Ex. A**

### 7. **Fee**

Montana Code Annotated § 76-3-207 allows a local government to establish a reasonable fee of up to \$200 for review of a request to use an exemption from subdivision review. No such code could be found in the town development code. However, the applicant has included a payment in the amount of \$200 for review of this exemption request.

**Please see Ex. A.**

**Applicant's Signature:** \_\_\_\_\_



**Applicant's Printed Name:** \_\_\_\_\_

Jeff Jessop

**Date:** 5-11-2022

## Exhibit A – Application for Exemption from Subdivision Review

Section 3 of the application for use of an exemption asks for the type of exemption requested. In this case the applicant is requesting to aggregate lots without subdivision review:

. . . unless the method of disposition is adopted for the purpose of evading this chapter [subdivision review], the following divisions or aggregations of tracts of record of any size, regardless of the resulting size of any lot created by the division or aggregation, are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions or aggregations of land other than subdivisions. . .

Mont. Code Ann. § 76-3-207(1)(f)

Any number of lots within a platted subdivision may be aggregated if “the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established.” Mont. Code Ann. § 76-3-207(1)(f). This allows the aggregation of more than five lots if the result is aggregation of all lots into one lot.

Exhibit B is attached to provide the detailed property description of the parcels that make up this portion of the Townsite of Stevensville. Exhibit C is the diagram of the parcel showing the existing lots and indicating the existing boundaries by dashed lines and the new boundaries by a solid line.

Finally, addressing the criteria for exemption from subdivision review, an aggregation is fairly simple to approve because it does not create additional lots. Further, the proposed use of the Townhome Exemption on this lot, is exempt from subdivision review as well. “It is clear that a division of land that was specifically exempt from subdivision review under the Subdivision Act was divided “in compliance with” the Act.” *Shults v. Liberty Cove, Inc.*, 2006 MT 247, ¶ 22, 334 Mont. 70, 76, 146 P.3d 710, 713–14. The exempt aggregation of boundaries is not an intent to evade subdivision review because the resulting single lot will be exempt from subdivision review as a Townhome development.

Please place this on the next town council agenda for review by the town. I would remind you that this does not require a public hearing. It allows the town to

review exemptions. Your development code does not have an adopted procedure. However, this is the easiest exemption because no new parcels are created.

Please let me know the date that this will be considered by the town council.

**EXHIBIT 6**

**PARCEL 1:**

Lots 1, 2, 3, 4, 17, 18, 19 and 20, Block 10, Original Townsite of Stevensville, Ravalli County, Montana, according to the official recorded plat thereof. Together with portion of street and ally vacated by Resolutions Recorded in Permanent File No. 8043 and Document No. 542621 which portions attach by operation of law.

**PARCEL 2:**

A tract of land in and being a portion of Lot 2, Block 5, May Addition, Ravalli County, Montana, according to the official recorded plat thereof and being more particularly described as follows:

Commencing at the northwest corner of SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 26, Township 9 North, Range 20 West, and thence south along section line 370.78 feet; thence east and at right angles with said section line 234.96 feet; thence north and parallel with Section line 370.78 feet; thence west 234.96 to the place of beginning.

Recording Reference: Book 125 of Deeds, page 477.

**EXCEPTING THEREFROM** a tract of land in and being a portion of Lot 2, Block 5, May Addition, Ravalli County, Montana, according to the official recorded plat thereof and Government Lot 1, Section 26, Township 9 North, Range 20 West, P.M.M., Ravalli County, Montana, and being more particularly described as follows:

Commencing at the section corner common to Sections 22, 23, 26 and 27, T9N R20W P.M.M., a 1 $\frac{1}{4}$ " iron pipe with 3" brass cap, a corner of record; thence N89°38'20" E. 224.91 feet; thence, S0°21'40" E., 1161.48 feet to the southeast corner of the Major John Owen Donation Claim, a corner of record and the point of beginning; thence continuing S0°21'40" E., 200.00 feet to a point; thence; west, parallel with the south boundary of said Donation Claim 150.00 feet; thence, N0°21'40" W., 200.00 feet to the south boundary of Major John Owen Donation Claim; thence east along said south claim boundary 150.00 feet to the point of beginning. (As Recorded in Book 127 of Deeds, page 273)

**PARCEL 3:**

A tract of land in Government Lot 1, Section 26, Township 9 North, Range 20 West, P.M.M., Ravalli County, Montana, and being more particularly described as follows:

Commencing at southwest corner of Lot 1, Section 26, Township 9 North, Range 20 West, and thence North 139.9 feet; thence east 218 feet, thence south 139.9 and thence west 218 feet to place of beginning.

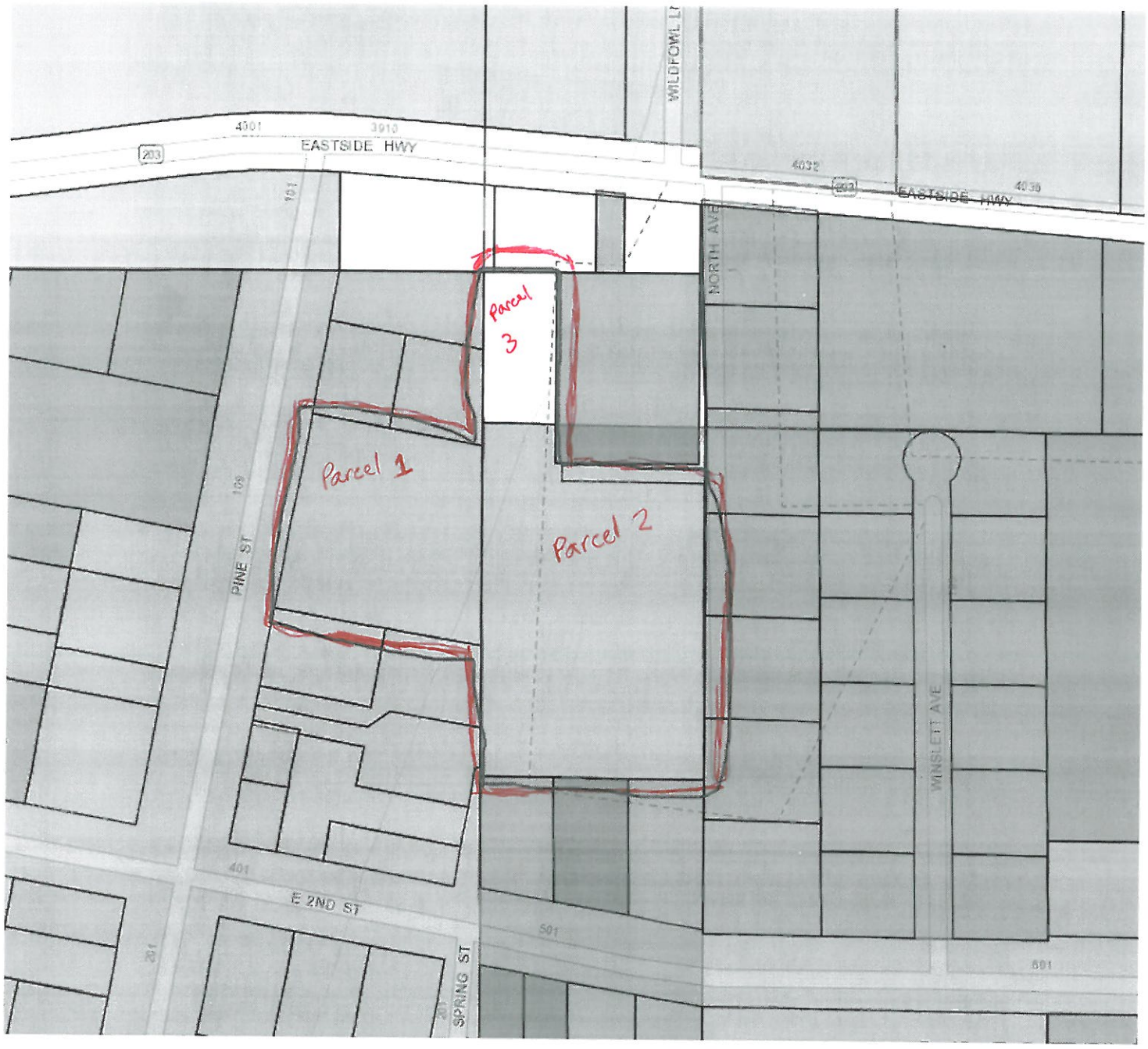
Recording Reference: Book 125 of Deeds, page 477.

**EXCEPTING THEREFROM** a tract of land in and being a portion of Lot 2, Block 5, May Addition, Ravalli County, Montana, according to the official recorded plat thereof and Government Lot 1, Section 26, Township 9 North, Range 20 West, P.M.M., Ravalli County, Montana, and being more particularly described as follows:

Commencing at the section corner common to Sections 22, 23, 26 and 27, T9N R20W P.M.M., a 1 $\frac{1}{4}$ " iron pipe with 3" brass cap, a corner of record; thence N89°38'20" E. 224.91 feet; thence, S0°21'40" E., 1161.48 feet to the southeast corner of the Major John Owen Donation Claim, a corner of record and the point of beginning; thence continuing S0°21'40" E., 200.00 feet to a point; thence; west, parallel with the south boundary of said Donation Claim 150.00 feet; thence, N0°21'40" W., 200.00 feet to the south boundary of Major John Owen Donation Claim; thence east along said south claim boundary 150.00 feet to the point of beginning. (As Recorded in Book 127 of Deeds, page 273)

Recording Reference: Book 228 Deeds, page 155.

Exhibit C

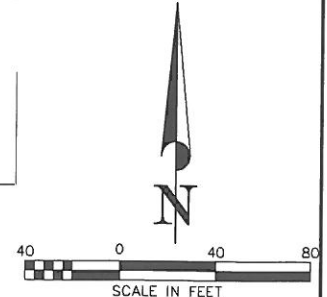
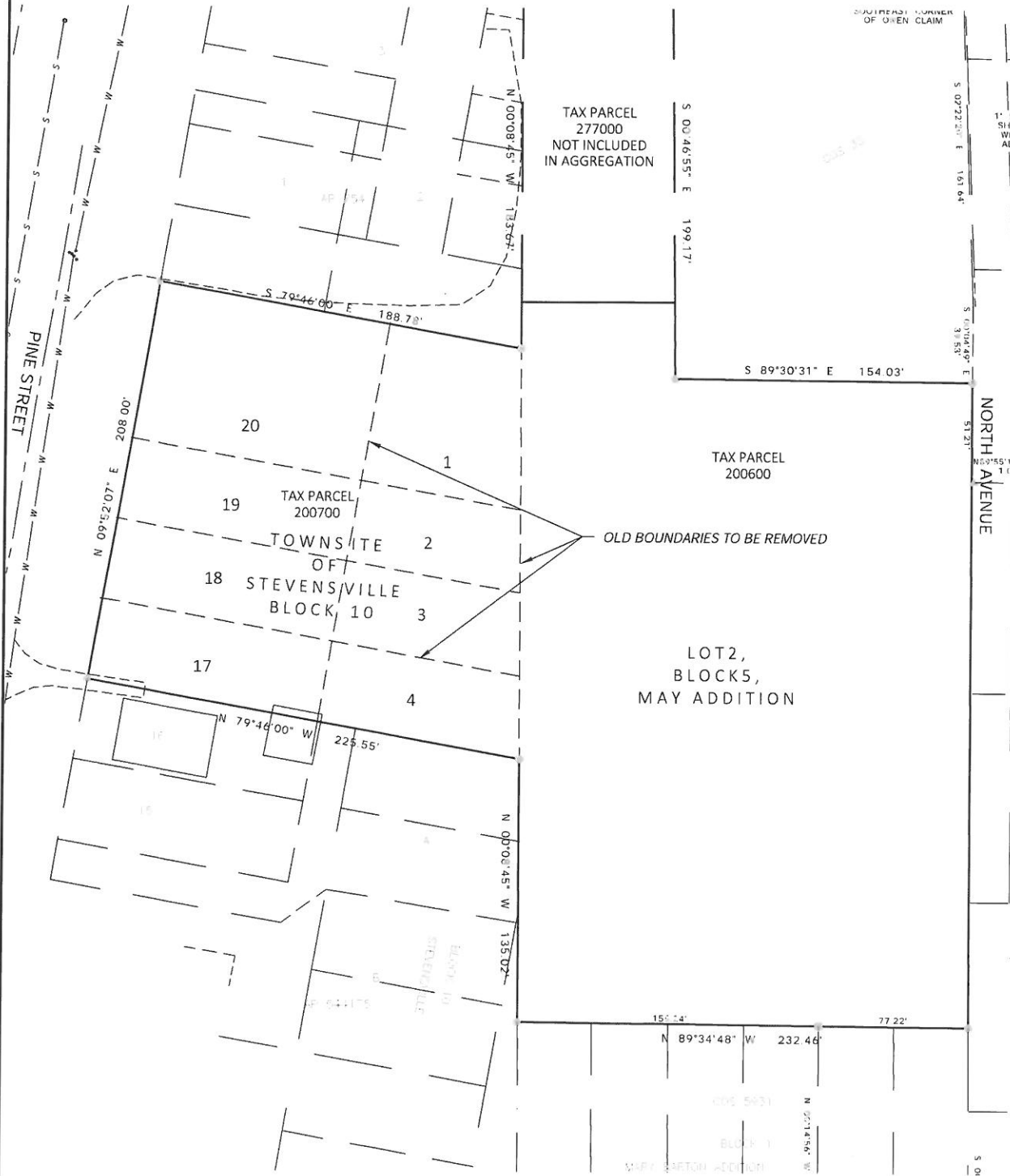


# LOT AGGREGATION

A PORTION OF SECTIONS 26 & 27, T9N, R20W, P.M.M. ALSO BEING  
 A PORTION OF THE TOWNSITE OF STEVENSVILLE  
 RAVALLI COUNTY, MONTANA



VICINITY MAP





## Stevensville Town Council Meeting

### Agenda Item Request

**To be submitted BEFORE Noon on the Wednesday immediately preceding the Thursday agenda publishing deadline (8-days ahead of the meeting).**

<b>Agenda Item Type:</b>	Unfinished Business
<b>Person Submitting the Agenda Item:</b>	Steve Gibson
<b>Second Person Submitting the Agenda Item:</b>	
<b>Submitter Title:</b>	Mayor
<b>Submitter Phone:</b>	
<b>Submitter Email:</b>	
<b>Requested Council Meeting Date for Item:</b>	06/23/2022
<b>Agenda Topic:</b>	Discussion/Decision: ILmar Properties LLC, Subdivision Exemption Application
<b>Backup Documents Attached?</b>	Yes
<b>If no, why not?</b>	
<b>Approved/Disapproved?</b>	Choose an item.
<b>If Approved, Meeting Date for Consideration:</b>	06/23/2022
<b>Notes:</b>	



**File Attachments for Item:**

b. Discussion/Decision: Resolution 505, Process for Selling Stevensville Airport Millings

**RESOLUTION NO. 505**

**A Resolution to Authorize the Town of Stevensville  
To Establish a Process for Selling Airport Millings**

**WHEREAS**, the Town of Stevensville has applied for Federal Aviation Administration-administered financial assistance.

**WHEREAS**, the Town of Stevensville has agreed to obligations upon acceptance of Federal Aviation Administration-administered financial assistance program funding.

**WHEREAS**, the Federal Aviation Administration enforces these obligations through its Airport Compliance Program.

**NOW THEREFORE BE IT RESOLVED**, by this Town Council of the Town of Stevensville, that if the Town wishes to sell any non-aeronautical use property that it must do so in compliance with all federal and state regulations and laws governing aviation.

**THE FOLLOWING ITEMS ARE HEREBY DECLARED AS PART OF A FEDERALLY FUNDED AIRPORT PROJECT, NOT CONSIDERED SURPLUS PROPERTY, AND CAN BE SOLD AT FAIR MARKET VALUE AND BE DEPOSITED IN A STEVENSVILLE AIRPORT FUND FOR USE AS AIRPORT CAPITAL OR FOR AIRPORT OPERATING COSTS ONLY:**

Airport Millings

DATED THIS 23<sup>rd</sup> day of June, 2022, after motion and second at a regular meeting of the Stevensville Town Council.

Approved:

Attest:

\_\_\_\_\_  
Steve Gibson, Mayor

\_\_\_\_\_  
Jenelle Berthoud, Town Clerk

# Exhibit 1

June 23, 2022

Resolution 505 establishes a process for selling airport millings. A receipt form will track the current fair market price of millings, buyer information, purchase information, and approval of the airport manager. The form is used to pay and retrieve the millings after full payment is received by authorized personnel at Town Hall. Payment must be deposited into an airport fund.

See attached form to be used.

Marilyn Wolff  
Town of Stevensville Council Member

Date: \_\_\_\_\_

**TOWN OF STEVENSVILLE AIRPORT RECEIPT FOR MILLING SALES**

Name of Buyer: \_\_\_\_\_

Address and Phone: \_\_\_\_\_

Fair Market Value Per Yard: \$ \_\_\_\_\_ Number of Milling Yards Purchased: \_\_\_\_\_

Millings Total Purchase Price: \$ \_\_\_\_\_

Airport Manager Approval: \_\_\_\_\_

**Buyer must pay for the millings in full at Town Hall. Buyer must return a copy of this completed receipt at the time millings are loaded and removed from the Airport.**

Town Financial Manager or Town Clerk Signature for the Total Price Received Above: \_\_\_\_\_

Date: \_\_\_\_\_

Check # \_\_\_\_\_ Cash: \$ \_\_\_\_\_

Money received from this transaction must be directly deposited into the Airport Fund and no other account/s of the Town of Stevensville. FAA Assurances provisions under an AIP grant require revenue cannot be used other than for airport capital or operating costs. Revenue diversion violates federal law.

-----  
Date: \_\_\_\_\_

**TOWN OF STEVENSVILLE AIRPORT RECEIPT FOR MILLING SALES**

Name of Buyer: \_\_\_\_\_

Address and Phone: \_\_\_\_\_

Fair Market Value Per Yard: \$ \_\_\_\_\_ Number of Milling Yards Purchased: \_\_\_\_\_

Millings Total Purchase Price: \$ \_\_\_\_\_

Airport Manager Approval: \_\_\_\_\_

**Buyer must pay for the millings in full at Town Hall. Buyer must return a copy of this completed receipt at the time millings are loaded and removed from the Airport.**

Town Financial Manager or Town Clerk Signature for the Total Price Received Above: \_\_\_\_\_

Date: \_\_\_\_\_

Check # \_\_\_\_\_ Cash: \$ \_\_\_\_\_

Money received from this transaction must be directly deposited into the Airport Fund and no other account/s of the Town of Stevensville. FAA Assurances provisions under an AIP grant require revenue cannot be used other than for airport capital or operating costs. Revenue diversion violates federal law.

Tim,

I received another response from our compliance officer that may be good background info for you as you discuss the millings:

One additional resource in the FAA Revenue Use Policy, which describes the concept of “Mineral Rights”. Cash (actual revenue generated) and Property (sale or use of) are easier concepts to rationalize as airport revenue. Water rights, earth products (gravel, dirt, petroleum, atomic materials, agriculture products, and other minerals) are sometimes not viewed as airport revenue, but the Revenue Use Policy states that these are indeed airport revenue and needed to be treated as such. In the case of millings there is also an additional sensitivity to the AIP investment. Here are two passages from the Revenue Use Policy:

- The Final Policy retains the proposed definition of airport revenue to include the sale of sponsor owned mineral, natural, agricultural products or water to be taken from the airport
- mineral and water rights represent a part of the airport property and its value. Just as proceeds from the sale or lease of airport property constitute airport revenue, proceeds from the sale or lease of a partial interest in the property—i.e. water or mineral rights— should also be considered airport revenue.

**Diane Stilson, P.E.**

Civil Engineer

Environmental Protection Specialist

FAA, Helena Airports District Office

2725 Skyway Drive, Suite 2

Helena, MT 59602

Ph: (406) 441-5411

Fax: (406) 449-5274

From: Stilson, Diane (FAA) <[Diane.Stilson@faa.gov](mailto:Diane.Stilson@faa.gov)>

Sent: Tuesday, May 17, 2022 9:33 AM

To: Tim Smead <[tims@townofstevensville.com](mailto:tims@townofstevensville.com)>

Cc: Stilson, Diane (FAA) <[Diane.Stilson@faa.gov](mailto:Diane.Stilson@faa.gov)>

Subject: Sale of millings from airport project

Tim,

You had asked about revenue generated from the sale of airport millings that were the product of an AIP funded project. There are some options when it comes to millings, but in the end, all avenues for using the millings should end up benefiting the Airport, and any revenue generated must stay on the airport. Millings can be turned over to Contractor for disposal (usually resulting in lower bid price if the millings are of value), millings can be used on airport (AIP funds the milling waste location, use/grading is done outside of AIP program), or millings can be sold and revenue generated for the airport.

Since these millings are the result of an AIP-funded project, their sale is considered airport revenue and subject to the airport revenue use policy (attached).

In a nutshell, when an Airport Sponsor accepts AIP grants, they agree to grant assurances, one of which relates to Airport Revenue (#25) and states, “All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport...”. I’ve attached a copy of the grant assurances for your reference.

Use of airport revenue for purposes other than as allowed is considered revenue diversion. From FAA Order 5190.6B:

15.13. Prohibited Uses of Airport Revenue.

a. Unlawful Revenue Diversion. Unlawful revenue diversion is the use of airport revenue for purposes other than airport capital or operating costs or the costs of other facilities owned or operated by the sponsor and directly and substantially related to air transportation. Revenue diversion violates federal law and AIP grant assurances unless: (1) it is grandfathered within the scope of grandfathered financial authority established before 1982, or, (2) it is authorized under an exemption issued by the FAA as part of the airport privatization pilot program.

Let me know if you have any questions, or need any further information on this subject. It is very important that the Town of Stevensville understand that airport revenue is for airport use only.

**Diane Stilson, P.E.**  
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Environmental Protection Specialist  
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## Stevensville Town Council Meeting

### Agenda Item Request

**To be submitted BEFORE Noon on the Wednesday immediately preceding the Thursday agenda publishing deadline (8-days ahead of the meeting).**

<b>Agenda Item Type:</b>	Unfinished Business
<b>Person Submitting the Agenda Item:</b>	Marilyn Wolff
<b>Second Person Submitting the Agenda Item:</b>	Tim Smead, Stevensville Airport Manager
<b>Submitter Title:</b>	Council Member
<b>Submitter Phone:</b>	
<b>Submitter Email:</b>	
<b>Requested Council Meeting Date for Item:</b>	06/23/2022
<b>Agenda Topic:</b>	Discussion/Decision: Resolution 505, Process for Selling Stevensville Airport Millings
<b>Backup Documents Attached?</b>	Yes
<b>If no, why not?</b>	
<b>Approved/Disapproved?</b>	Approved
<b>If Approved, Meeting Date for Consideration:</b>	06/23/2022
<b>Notes:</b>	Exhibits 1, 2, 3, & 4.

Airport Millings Resolution Summary  
(By Tim Smead)

Projects at the airport are paid for by grants from (FAA) Federal Aviation Administration and the (MDT) Montana Department of Transportation's Aeronautics Division. These grants cover 90% to 100% of the costs for airport projects. Any remaining money required to match grant funding is paid for by the revenue generated by the airport.

When the town accepts federal grant money for airport projects it must agree to and comply with federal grant obligations found within the FAA Airport Compliance Manual. These obligations are called assurances.

What the FAA Airport Compliance Manual says in Summary.

1. The millings belong to the town as the airport's owner.
2. The millings were part of a federally funded grant program for an airport project.
3. They are not considered surplus property under the federal grant program.
4. That they must be sold at current fair market value. (See attachment, FAA Airport Compliance Manual, Chapter 17.11&17.12)
5. The town may only use those funds for airport capital or for airport operating costs only. (See attachment, FAA Airport Compliance Manual, Appendix A - Airport Sponsors Assurances, assurance number 25)
6. Should the revenue generated by the sale of the millings be expended by the town for non-airport capital or airport operating costs, it will be in violation of federal law and these grant assurances. (See attachment, FAA Airport Compliance Manual, Chapter 15.13)

In addition to these federal guidelines, the town must comply with specific State laws concerning the airport:

7. The town must follow state municipal regulations. (See attachment, MCA 67-10-301 Municipal Regulation)
8. That the funds generated by the sale must be deposited directly into the "Stevensville Airport" fund account. (See attachment, MCA 67-10-404 Airport Revenues And Sale Proceeds)

Immediate repercussions of violating these federal and state regulations.

1. The FAA and Montana Department of Transportation will begin the audit process triggered by unlawful revenue diversion.
2. Should there be any past or current revenue diversion found, the town will have to pay any money misused back to the FAA and Montana Department of Transportation and be fined in accordance with federal and state law.
3. The town would no longer be eligible for any FAA federal funding or Montana Department of Transportation funding for the airport. Possibly forever.
4. Should the town become eligible for funding again the airports risk assessment will go up which is like the towns credit score and will limit its access capital.
5. Any active funded projects will have to be paid back.

Please take these considerations along with the information and expertise I have provide very seriously when making any decision on Thursday or for any future considerations at the airport. All council decisions regarding the airport have significant consequences with either a good or bad, long-lasting effect.



- FAA Airport Compliance Manual: Chapter 17

**17.11. Nonaeronautical Rates.**

Rates charged for nonaeronautical use (e.g., concessions) of the airport must be based on fair market value.

**17.12. Fair Market Value.**

Fair market fees for use of the airport are required for nonaeronautical use of the airport and are optional for non-airfield aeronautical use. Fair market pricing of airport facilities can be determined by reference to negotiated fees charged for similar uses of the airport or by appraisal of comparable properties.

- FAA Airport Compliance Manual: Appendix A – Airport Sponsors Assurances, assurance number 25

**25. Airport Revenues.**

a. All revenue generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport.

- FAA Airport Compliance Manual: Chapter 15

**15.13. Prohibited Uses of Airport Revenue.**

a. **Unlawful Revenue Diversion.** Unlawful revenue diversion is the use of airport revenue for purposes other than airport capital or operating costs or the costs of other facilities owned or operated by the sponsor and directly and substantially related to air transportation. Revenue diversion violates federal law and AIP grant assurances unless: (1) it is grandfathered within the scope of grandfathered financial authority established before 1982, or, (2) it is authorized under an exemption issued by the FAA as part of the airport privatization pilot program.

Revenue diversion is the use of airport revenue for purposes other than airport capital or operating costs.

b. **General.** Prohibited uses of airport revenue include direct or indirect payments that exceed the fair and reasonable value of those services and facilities provided to the airport.

- MCA 67-10-310

# Montana Code Annotated 2021

TITLE 67. AERONAUTICS

CHAPTER 10. MUNICIPAL AIRPORTS

Part 3. Operation of Airports

## Municipal Regulation

**67-10-301. Municipal regulation.** (1) A municipality which has established or acquired or which may establish or acquire an airport or air navigation facility is authorized to adopt, amend, and repeal such reasonable ordinances, resolutions, rules, and orders as it shall deem necessary for the management, government, and use of such airport or air navigation facility under its control, whether situated within or without the territorial limits of the municipality. For the enforcement thereof, the municipality may, by ordinance or resolution, as may by law be appropriate, appoint airport guards or police with full police powers and fix penalties within the limits prescribed by law for the violation of the ordinances, resolutions, rules, and orders. Said penalties shall be enforced in the same manner in which penalties prescribed by other ordinances or resolutions of the municipality are enforced. To the extent that an airport or other air navigation facility controlled and operated by a municipality is located outside the territorial limits of the municipality, it shall, subject to federal and state laws and rules, be under the jurisdiction and control of the municipality controlling or operating it, and no other municipality shall have any authority to charge or exact a license fee or occupation tax for operations thereon.

(2) All ordinances, resolutions, rules, or orders which are issued by the municipality shall be kept in substantial conformity with the laws of this state or any regulations promulgated or standards established pursuant thereto and, as nearly as may be, with the federal laws governing aeronautics and the rules and standards duly issued thereunder.

- MCA 67-10-404

# Montana Code Annotated 2021

TITLE 67. AERONAUTICS

CHAPTER 10. MUNICIPAL AIRPORTS

Part 4. Finance

## Airport Revenues And Sale Proceeds

**67-10-404. Airport revenues and sale proceeds.** The revenues obtained by a municipality from the ownership, control, or operation of any airport or air navigation facility, including proceeds from the sale of any airport or portion thereof or air navigation facility property, must be deposited in a special fund to be designated the "\_\_\_\_\_ airport fund", which revenues must be appropriated solely to, and used by the municipality for the purposes authorized by this chapter.



**FAA  
Airports**

## **ASSURANCES**

### **AIRPORT SPONSORS**

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#### **A. General.**

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

#### **B. Duration and Applicability.**

##### **1. Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

##### **2. Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

##### **3. Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and

assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

### C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

#### 1. General Federal Requirements

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant including but not limited to the following:

#### FEDERAL LEGISLATION

- a. 49 U.S.C. subtitle VII, as amended.
- b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.<sup>1</sup>
- c. Federal Fair Labor Standards Act – 29 U.S.C. § 201, et seq.
- d. Hatch Act – 5 U.S.C. § 1501, et seq.<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601, et seq.<sup>1, 2</sup>
- f. National Historic Preservation Act of 1966 – Section 106 – 54 U.S.C. § 306108.<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. § 312501, et seq.<sup>1</sup>
- h. Native Americans Grave Repatriation Act – 25 U.S.C. § 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. § 7401, et seq.
- j. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. § 1451, et seq.
- k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a.<sup>1</sup>
- l. 49 U.S.C. § 303, (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973 – 29 U.S.C. § 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 – 42 U.S.C. § 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968, as amended – 42 U.S.C. § 4151, et seq.<sup>1</sup>
- s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 – 42 U.S.C. § 8373.<sup>1</sup>
- t. Contract Work Hours and Safety Standards Act – 40 U.S.C. § 3701, et seq.<sup>1</sup>
- u. Copeland Anti-kickback Act – 18 U.S.C. § 874.<sup>1</sup>

- v. National Environmental Policy Act of 1969 – 42 U.S.C. § 4321, et seq.<sup>1</sup>
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.
- x. Single Audit Act of 1984 – 31 U.S.C. § 7501, et seq.<sup>2</sup>
- y. Drug-Free Workplace Act of 1988 – 41 U.S.C. §§ 8101 through 8105.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (P.L. 109-282, as amended by section 6202 of P.L. 110-252).
- aa. Civil Rights Restoration Act of 1987, P.L. 100-259.
- bb. Build America, Buy America Act, P.L. 117-58, Title IX.

#### **EXECUTIVE ORDERS**

- a. Executive Order 11246 – Equal Employment Opportunity<sup>1</sup>
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction<sup>1</sup>
- f. Executive Order 12898 – Environmental Justice
- g. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- h. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 13988 – Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- j. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- k. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

#### **FEDERAL REGULATIONS**

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. <sup>4,5</sup>
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.
- f. 14 CFR Part 150 – Airport Noise Compatibility Planning.

- g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.<sup>1</sup>
- j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.<sup>1</sup>
- k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).<sup>1</sup>
- l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).<sup>1</sup>
- m. 49 CFR Part 20 – New Restrictions on Lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.<sup>1, 2</sup>
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.<sup>1</sup>
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- x. 49 CFR Part 41 – Seismic Safety.

**FOOTNOTES TO ASSURANCE (C)(1)**

<sup>1</sup> These laws do not apply to airport planning sponsors.

<sup>2</sup> These laws do not apply to private sponsors.

<sup>3</sup> 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall

apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

- <sup>4</sup> Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- <sup>5</sup> Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

## **SPECIFIC ASSURANCES**

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Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

### **2. Responsibility and Authority of the Sponsor.**

#### **a. Public Agency Sponsor:**

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

#### **b. Private Sponsor:**

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

### **3. Sponsor Fund Availability.**

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

### **4. Good Title.**

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

### **5. Preserving Rights and Powers.**

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere

with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

## **6. Consistency with Local Plans.**

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.



**7. Consideration of Local Interest.**

It has given fair consideration to the interest of communities in or near where the project may be located.

**8. Consultation with Users.**

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

**9. Public Hearings.**

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

**10. Metropolitan Planning Organization.**

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

**11. Pavement Preventive Maintenance-Management.**

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

**12. Terminal Development Prerequisites.**

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. § 44706, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

**13. Accounting System, Audit, and Record Keeping Requirements.**

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The

accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

#### **14. Minimum Wage Rates.**

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. §§ 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

#### **15. Veteran's Preference.**

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. § 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

#### **16. Conformity to Plans and Specifications.**

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this Grant Agreement.

#### **17. Construction Inspection and Approval.**

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

## 18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

## 19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state, and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:
  1. Operating the airport's aeronautical facilities whenever required;
  2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
  3. Promptly notifying pilots of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or

facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

**20. Hazard Removal and Mitigation.**

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

**21. Compatible Land Use.**

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

**22. Economic Nondiscrimination.**

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
  - 1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
  - 2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable

classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

### **23. Exclusive Rights.**

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

### **24. Fee and Rental Structure.**

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for

which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

## **25. Airport Revenues.**

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
  1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
  2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
  3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
- c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of 49 U.S.C. § 47107.

## **26. Reports and Inspections.**

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the

public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
  1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
  2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

#### **27. Use by Government Aircraft.**

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

#### **28. Land for Federal Facilities.**

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

## 29. Airport Layout Plan.

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:
  1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
  2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
  3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
  4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.

Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:
  1. eliminate such adverse effect in a manner approved by the Secretary; or
  2. bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

## 30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4); creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.



- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
  - 1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
  - 2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
  - 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
- 2. So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

"The ([**Selection Criteria: Sponsor Name**]), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award."

e. Required Contract Provisions.

- 1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.

2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
  - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

### **31. Disposal of Land.**

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
  1. Reinvestment in an approved noise compatibility project;
  2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
  3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117;
  4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
  5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development

project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
  1. Reinvestment in an approved noise compatibility project;
  2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
  3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117;
  4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
  5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

### **32. Engineering and Design Services.**

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

### **33. Foreign Market Restrictions.**

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by

the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

**34. Policies, Standards, and Specifications.**

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (<https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf>) for AIP projects as of [Selection Criteria: Project Application Date].

**35. Relocation and Real Property Acquisition.**

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

**36. Access By Intercity Buses.**

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

**37. Disadvantaged Business Enterprises.**

The sponsor shall not discriminate on the basis of race, color, national origin, or sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

**38. Hangar Construction.**

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

### 39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:
  1. Describes the requests;
  2. Provides an explanation as to why the requests could not be accommodated; and
  3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

-The town of Stevensville is the sole owner of the airport. Town council approved of doing a needed runway resurfacing project several years ago. The town then applied for a grant through FAA program called an AIP (Airport Improvement Program). To accept the funding to do the project the town agreed to set of obligations known as "Assurances".

Section C,1 of this document states the following:

**1. General Federal Requirements**

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant....

-Part of that compliance is Assurance #25 which is in regard to revenue that states:

**Airport Revenues.**

All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport.

Which means that any grant money given to the town under the AIP program for a project that creates revenue must solely be used to benefit the town owned airport.

This includes the sale of the millings.

Because the town is bound to these assurances for various projects, they are also bound to the FAA Compliance Program (Order 5190.6b). This program ensures the towns compliance with its federal obligations in the form of grant assurances.

In the programs compliance manual in Chapter 15.13 Prohibited Uses of Airport Revenue it states:

a. Unlawful Revenue Diversion.

Unlawful revenue diversion is the use of airport revenue for purposes other than airport capital or operating costs or the costs of other facilities owned or operated by the sponsor and directly and substantially related to air transportation. Revenue diversion violates federal law and AIP grant assurances unless: (1) it is grandfathered within the scope of grandfathered financial authority established before 1982, or, (2) it is authorized under an exemption issued by the FAA as part of the airport privatization pilot program.

Revenue diversion is the use of airport revenue for purposes other than airport capital or operating costs.

b. General.

Prohibited uses of airport revenue include direct or indirect payments that exceed the fair and reasonable value of those services and facilities provided to the airport. The FAA generally considers the cost of providing the services or facilities to the airport as a reliable indicator of value. For example, the DOT Office of Inspector General (OIG) and the FAA found a city sponsor to be diverting

revenue where the sponsor charged the airport for investment management at the rate that would have been charged for commercial services when services to the airport were actually provided by city employees at a much lower cost.

Because the millings are not considered surplus property such as runway lights or signage and cannot be used for aviation purposes the manual state in Chapter 17.11 and 17.12 the following concerning establishing value/price:

17.11. Nonaeronautical Rates.

Rates charged for nonaeronautical use (e.g., concessions) of the airport must be based on fair market value. (e.g., lease of land at fair market rent subject to the specific exceptions listed in this chapter).

17.12. Fair Market Value.

Fair market fees for use of the airport are required for nonaeronautical use of the airport and are optional for non-airfield aeronautical use. Fair market pricing of airport facilities can be determined by reference to negotiated fees charged for similar uses of the airport or by appraisal of comparable properties.

Simply put, the town owns the airport. The millings are source of revenue for the town that must be used for the benefit of the airport as required and agreed to under the FAA Airport Improvement Program and the FAA Compliance Program.

The town would like to sell the millings in compliance with the agreed to program assurances, and under federal and state law.

Once reasonable FMV is established, and a transaction is complete the funds will be deposited as per MCA Title **67-10-404. Airport revenues and sale proceeds.**

The revenues obtained by a municipality from the ownership, control, or operation of any airport or air navigation facility, including proceeds from the sale of any airport or portion thereof or air navigation facility property, must be deposited in a special fund to be designated the "\_\_\_\_\_ airport fund", which revenues must be appropriated solely to, and used by the municipality for the purposes authorized by this chapter.

**File Attachments for Item:**

a. Discussion/Decision: Mayor's Request to Explore and Evaluate the Benefits and Opportunities to the Community Afforded by the Federal Aviation Administration's (FAA) Airport Investment Partnership Program (AIPP)





## Stevensville Town Council Meeting

### Agenda Item Request

**To be submitted BEFORE Noon on the Wednesday immediately preceding the Thursday agenda publishing deadline (8-days ahead of the meeting).**

<b>Agenda Item Type:</b>	New Business
<b>Person Submitting the Agenda Item:</b>	Steve Gibson
<b>Second Person Submitting the Agenda Item:</b>	Tim Smead, Stevensville Airport Manager
<b>Submitter Title:</b>	Mayor
<b>Submitter Phone:</b>	
<b>Submitter Email:</b>	
<b>Requested Council Meeting Date for Item:</b>	06/23/2022
<b>Agenda Topic:</b>	Discussion/Decision: Mayor's Request to Explore and Evaluate the Benefits and Opportunities to the Community Afforded by the Federal Aviation Administration's (FAA) Airport Investment Partnership Program (AIPP)
<b>Backup Documents Attached?</b>	Choose an item.
<b>If no, why not?</b>	
<b>Approved/Disapproved?</b>	Approved
<b>If Approved, Meeting Date for Consideration:</b>	06/23/2022
<b>Notes:</b>	

**File Attachments for Item:**

b. Discussion/Decision: Motion to Approve Morrison Maierle to Apply for ARPA Grant for Water/Septic at the Airport

**TO:** Town of Stevensville  
**FROM:** Tyler Reed, PE, Aaron McConkey, PE  
**RE:** Stevensville Airport Water and Wastewater Improvements Funding Support Request

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**Background:** The Stevensville Airport currently utilizes several lower yielding wells to meet both potable and irrigation water demands at the airport. The water wells are not constructed to public water supply standards and should not be used to meet transient populations of workers, owners or guests at the airport site. Each hanger facility that has potable water facilities currently has an individual onsite wastewater drainfield to treat and dispose of sanitary wastewater. These systems are generally constructed directly adjacent to the hanger being served and have limited capacities due to the density of hangers/lease space.

As the airport supports current and further aviation businesses there are no adequate facilities for public water or sanitary wastewater available. Safe and reliable water and sanitary wastewater facilities are necessary to protect workers, owners and guests at the airport.

To support current and future operations at the airport a transient public water system and public onsite wastewater system are desired. These public facilities would allow for the construction of revenue-generating facilities at the airport. There currently is no funding source for such improvements as the Airport receives no tax dollars from the Town or from Ravalli County for its operations. It is funded by airport leases, aviation fuel taxes, and user and business fees. This revenue often falls short of normal operational requirements and over the years the Airport has had to rely on volunteers to maintain the airport to the various regulatory standards.

**Funding Source Alternative:** Ravalli County received \$2,461,952 as part of House Bill 632 and the American Rescue Plan Act of 2021 (ARPA). Funds received by Ravalli County must meet eligibility requirements of the State of Montana SRF program that follow the Clean Water and

*Stevensville Airport Water and Wastewater Improvements Funding Support Request*

Drinking Water State Revolving Funds programs from US EPA. These projects are generally focused on providing clean and safe drinking water and protecting water bodies and aquifers.

Ravalli County has currently provided commitment letters for

two projects utilizing portions of the \$2,461,952 allotment. A total of \$283,452 remains uncommitted at this time. Project applications must be made to the State of Montana prior to September of 2022 for Minimum Allocation Request. Previous applications for funding have already stratified Ravalli County funding match requirements for utilization of the entire \$2,461,952 of ARPA Minimum Allocation funds.

### ARPA - Eligible Uses

Funds may be used to:

- Respond to the public health emergency or its negative economic effects
- Support essential workers with higher pay
- Backfill state and local government for lost revenues during pandemic
- Make necessary investments in **water, sewer, or broadband infrastructure**



**Request:** Stevensville Airport requests that the Town of Stevensville supports the request of funding from Ravalli County and the State of Montana for a total of up to \$283,452 for planning, design, permitting and construction of onsite public water and sanitary wastewater systems at the airport. The onsite water and wastewater systems would be designed and constructed meeting Montana DEQ Design Circular Standards. The proposed improvements would provide safe, reliable drinking water to airport workers and guests. The proposed wastewater improvements would protect the groundwater aquifer and area wells.



## Stevensville Town Council Meeting

### Agenda Item Request

**To be submitted BEFORE Noon on the Wednesday immediately preceding the Thursday agenda publishing deadline (8-days ahead of the meeting).**

<b>Agenda Item Type:</b>	New Business
<b>Person Submitting the Agenda Item:</b>	Marilyn Wolff
<b>Second Person Submitting the Agenda Item:</b>	Tim Smead, Stevensville Airport Manager
<b>Submitter Title:</b>	Council Member
<b>Submitter Phone:</b>	
<b>Submitter Email:</b>	
<b>Requested Council Meeting Date for Item:</b>	06/23/2022
<b>Agenda Topic:</b>	Discussion/Decision: Motion to Approve Morrison Maierle to Apply for ARPA Grant for Water/Septic at the Airport
<b>Backup Documents Attached?</b>	Yes
<b>If no, why not?</b>	
<b>Approved/Disapproved?</b>	Approved
<b>If Approved, Meeting Date for Consideration:</b>	06/23/2022
<b>Notes:</b>	

**File Attachments for Item:**

c. Discussion/Decision: Consent to the Mayor's Appointment of Brian Germane to the Airport Board

**BOARD APPLICATION FORM  
STEVENSVILLE, MONTANA**

**\*Disclosure: any information on this application is available for public view**

Name: Brian Germane Home Phone: 406-880-3361

Address: 3464 Baldwin Road Work/Cell Phone: 406-880-3361

City: Stevensville State: MT Zip: 59870

Email Address: briangermane@gmail.com

Business or Occupation: Superintendent in Construction Management

Board or Committee applying for: Airport

- ✓ Please describe your experience or background which you believe qualifies you for service on this Board or Committee (attached additional sheets if needed):  
See attached

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- ✓ Why do you wish to serve on this Board or Committee?  
See attached

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- ✓ Additional information which you feel is pertinent:

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Signature: 

Date: 05/10/2022

**Return Application to: Town of Stevensville, P.O. Box 30, Stevensville, MT 59870**

## **Brian Germane – Applicant for Airport Board Position**

### **Please describe your experience or background which you believe qualifies you for service on this Board or Committee (attached additional sheets if needed):**

As a pilot and someone who has been involved in aviation for nearly 30 years, I have an endless passion for, and a good understanding of the general aviation community. As it is with most communities, there is always a struggle between those that want change and those that don't. Understanding and finding the balance between the two is one of the keys to sustainability. Through a long career in construction management, I have spent most days doing just that - finding the balance between multiple, competing issues, i.e., schedule, budget, material procurement, manpower and equipment resources, emotions, and most importantly, safety. I believe my management experience and my ability to resolve conflicts, all translate well and are applicable to the board position I am seeking. These soft skills, combined with my deep love for aviation, make me an ideal candidate for this position.

### **Why do you wish to serve on this board or commission?**

Throughout my time in aviation, I have seen many airports, both smaller and larger, get wiped-off the charts. General aviation airports are a fragile commodity, and their demise is often the result, in part, of a lack of public understanding. Last summer, my wife and I were at the airport for one of our many tailgate lunch dates. I recall saying that I wished that there were some way for me to get involved in the airport. I have often thought about how we could increase public awareness and ultimately, the public's understanding of the benefits of having a general aviation airport. It seems that most non-aviation residents are unaware that there is an airport in Stevensville. As I was typing this, I began a conversation with a co-worker, a bitterroot resident. He was completely unaware of our airport. We have a tremendous asset in 32S, and I would greatly appreciate the opportunity help steer its' future.





## Stevensville Town Council Meeting

### Agenda Item Request

**To be submitted BEFORE Noon on the Wednesday immediately preceding the Thursday agenda publishing deadline (8-days ahead of the meeting).**

<b>Agenda Item Type:</b>	New Business
<b>Person Submitting the Agenda Item:</b>	Steve Gibson
<b>Second Person Submitting the Agenda Item:</b>	
<b>Submitter Title:</b>	Mayor
<b>Submitter Phone:</b>	
<b>Submitter Email:</b>	
<b>Requested Council Meeting Date for Item:</b>	06/23/2022
<b>Agenda Topic:</b>	Discussion/Decision: Consent to the Mayor's Appointment of Brian Germane to the Airport Board
<b>Backup Documents Attached?</b>	Yes
<b>If no, why not?</b>	
<b>Approved/Disapproved?</b>	Approved
<b>If Approved, Meeting Date for Consideration:</b>	06/23/2022
<b>Notes:</b>	

**File Attachments for Item:**

d. Discussion: Cemetery Guidelines Pertaining to Riverside Cemetery and Monument Markers

THIS INDENTURE, Made the 29th day of August in the year of our Lord one thousand nine hundred and Fifty-five between Earl A. Lee and Bessie M. Lee, husband and wife, of Stevensville, Ravalli County, Montana, the parties of the first part, and THE TOWN OF STEVENSVILLE, A MUNICIPAL CORPORATION OF THE STATE OF MONTANA, of Ravalli County, Montana,

the party of the second part, WITNESSETH, that the said parties of the first part, for and in consideration of the sum of ONE DOLLAR Dollars in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do hereby these presents grant, bargain, sell, convey and confirm unto the said party of the second part, and to its successors and assigns, forever, all the real property situated in Ravalli County, State of Montana, described as follows:

All of the land owned by first parties in NW1/4 of Section 34, Township 9 North, Range 20 West, M.M. lying south of road right of way deeded Town of Stevensville by deed recorded in Volume 61 of Deeds at page 73 records of Ravalli County, Montana, described as follows: Beginning at a point 980.5 feet South of Northeast corner of Northwest Quarter of Northeast Quarter of Section 34, said point being on the Westerly line of right-of-way of main East side Highway; thence from said point of beginning South along said right-of-way 81.8 feet; thence North 89°50' West 1154.5 feet to Easterly line of the Masonic Cemetery Plot; thence North 00°35' West 201.0 feet along the said plot to Northeast corner thereof; thence South 89°30' East 374.0 feet; thence South 81°05' East 790.3 feet to point of beginning, containing 4.24 acres, more or less.

TOGETHER with 7 inches of water from Union Ditch Company, and all ditches, dams, flumes, and easements appurtenant thereto.

EXCEPTING AND RESERVING unto the said parties of the first part a right-of-way for an irrigation ditch as now located across the East end of the said premises.

Said property is to be used as a cemetery and it is expressly agreed that no monument or marker shall extend or project above the surface of the ground. If any marker or monument remain above the surface of the ground for a period of six months after notice to correct said condition by the first parties or their heirs, the said premises shall revert back to the said first parties and the heirs.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the REVERSION AND REMAINDER and remainders, rents, issues and profits thereof; and also all the estate, right, title and interest right of dower and right of homestead,

property, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in or to the said premises, and every part and parcel thereof, with the appurtenances.

TO HAVE AND TO HOLD, all and singular, the above mentioned and described premises, together with the appurtenances, unto the said party of the second part and to its successors heirs, do hereby covenant that they will forever warrant and defend all right, title and interest in and to the said premises, and the quiet and peaceable possession thereof, unto the said party of the second part, its successors heirs and assigns against the acts and deeds of the said parties of the first part, and all and every person and persons whomsoever lawfully claiming or to claim the same.

IN WITNESS WHEREOF, the said parties hand s and seal s the day and year first above written. of the first part have hereunto set their Signed, Sealed and Delivered in the Presence of Earl A. Lee Bessie M. Lee (SEAL) (SEAL) (SEAL) (SEAL)

\$2.75 Revenue Stamps attached and cancelled.

STATE OF MONTANA, } ss. County of Ravalli

On this 29th day of August in the year one thousand nine hundred and fifty five before me William A. Groff a Notary Public in and for the county and state aforesaid, personally appeared Earl A. Lee and Bessie M. Lee known to me

to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year first above written. (NOTARIAL SEAL) William A. Groff Notary Public for the State of Montana, residing at Victor, Montana. My commission expires Mar. 5, 1958

Filed for record this 28th day of October A. D., 1958 at 1:00 o'clock P. M. By Deputy. Anthony Hork County Recorder.

Recording Fee \$.....



## Stevensville Town Council Meeting

### Agenda Item Request

**To be submitted BEFORE Noon on the Wednesday immediately preceding the Thursday agenda publishing deadline (8-days ahead of the meeting).**

<b>Agenda Item Type:</b>	New Business
<b>Person Submitting the Agenda Item:</b>	Steve Gibson
<b>Second Person Submitting the Agenda Item:</b>	Steve Kruse, Public Works Supervisor
<b>Submitter Title:</b>	Mayor
<b>Submitter Phone:</b>	
<b>Submitter Email:</b>	
<b>Requested Council Meeting Date for Item:</b>	06/23/2022
<b>Agenda Topic:</b>	Discussion: Cemetery Guidelines Pertaining to Riverside Cemetery and Monument Markers
<b>Backup Documents Attached?</b>	Yes
<b>If no, why not?</b>	
<b>Approved/Disapproved?</b>	Approved
<b>If Approved, Meeting Date for Consideration:</b>	06/23/2022
<b>Notes:</b>	