U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

December 1, 2020

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RE: State of Florida Regulation of Air Traffic Patterns and Aviation Safety

Dear Ms. Yodice:

Thank you for your letter requesting a legal interpretation concerning a Florida state law regarding airport licensing requirements. You advise that you represent an airport landing site owner who has applied for public airport site approval under Chapter 14-60 of the Florida Administrative Code, *Airport Licensing, Registration, and Airspace Protection Airport Site Approval*, and that the State's application of that law to your client raises preemption issues.

We understand that the land for the heliport (X44), an existing seaplane facility on Watson Island in Miami, is owned by the City of Miami, leased to your client, and that the City supports the establishment of the heliport. You suggest that application of the Florida Administrative Code, Rule 14-60.005, *Airport Site Approval*, unlawfully regulates air traffic patterns and is thus preempted by Federal statutory and regulatory law. You note that the Federal Aviation Administration (FAA) has issued a Notice of Airport Airspace Analysis Determination under 14 CFR part 157 finding no safety or airspace objection to the proposed heliport.

You state that the Florida Department of Transportation (FDOT) has refused to accept the FAA's safety determination as sufficient to meet the state's requirement that applicants demonstrate "that safe air traffic patterns can be established for the proposed airport with all existing and approved airport sites within three miles of the proposed airport site." Fla. Admin. Code R. 14-60.005(5)(j).

You advise that in discussions with FDOT concerning Rule 14-60.005(5)(j), that office asserted that a signed memorandum from each airport owner or operator is required in order to "deconflict" the airspace between the airport sites. You argue that the State lacks the authority to regulate air traffic and mention that FDOT does not provide any enforcement mechanism or remedy should a nearby airport refuse to execute an agreement or should the State refuse to accept such an agreement.

You state that in accordance with the provisions of State law detailed above, to acquire a state license your client must obtain and submit to FDOT written and signed documentation from approximately 12 aircraft landing sites that are within three miles of your client's proposed airport site. Fla. Admin. Code R. 14-60.005(5)(j). You indicate that most of these airports are uncontrolled and thus are only able to document the posted traffic patterns. Otherwise, you state that the traffic

flow is governed by communication with FAA air traffic control or the general operating rules of 14 CFR part 91, with no ability for the airport to control the flight of aircraft.

As you note, FAA has already issued a part 157 Notice of Airport Airspace Analysis Determination – Alter Public Use Airport – No Objection (June 1, 2019), after conducting an aeronautical study.

In short, State and local laws that attempt to regulate aircraft traffic or operations, including the safety of airport traffic patterns; the weather conditions under which aircraft may operate; and aircraft takeoff direction for purposes of preventing mid-air collisions between aircraft, are preempted in accordance with the Federal statutory and regulatory framework.

Florida's Statutory and Regulatory Framework

Title XXV of the Florida Statutes Annotated, Chapter 330, § 330.30, *Approval of airport sites; registration and licensure of airports*, requires that the owner of any proposed airport shall, prior to site acquisition or construction or establishment of the proposed airport, obtain approval of the airport site from FDOT. Among other things, FDOT must be satisfied that "safe air-traffic patterns can be established for the proposed airport with all existing airports and approved airport sites in its vicinity." § 330.30(a)(4).

In accordance with § 330.30, Chapter 14-60 of the Florida Administrative Code, Rule 14-60.005 requires that any person proposing a new airport obtain an airport site approval order from FDOT prior to the establishment of an operational airport. Rule 14.60.005(4) states:

> (4) Conditions for Site Approval. [FDOT] shall grant site approval for a proposed airport that complies with all the requirements of Section 330.30, subject to any reasonable conditions necessary to protect the public health, safety, or welfare. Such conditions shall include operations limited to VFR flight conditions, restricted approach or takeoff direction from only one end of a runway, specified air-traffic pattern layouts to help prevent mid-air collision conflict with aircraft flying at another nearby airport, airport noise abatement procedures in order to satisfy community standards, or other environmental compatibility measures.
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> Fla. Admin. Code R. 14-60.005(4).

Public airport site approval applications must include supporting documentation to allow FDOT to make its site approval determination and to ensure the applicant's satisfaction of conditions stated in Rule 14-60.005(4). For example, for proposed heliports, the application for site approval must include a list of "all VFR [visual flight rules] airports and heliports within three nautical miles and all IFR [instrument flight rules] airports within 10 nautical miles." Fla. Admin. Code R. 14-60.005(5)(e)(2). The section also requires submission of information concerning air traffic patterns as follows:

> (j) Air Traffic Pattern. Provide written confirmation, including a graphical depiction, demonstrating that safe air traffic patterns can be established for the proposed airport with all existing and approved airport sites within three miles of the proposed airport site. Provide a copy of written memorandum(s) of understanding or letter(s) of agreement, signed by each respective party, regarding air traffic pattern separation procedures between the parties

> representing the proposed airport and any existing airport(s) or approved airport site(s) located within three miles of the proposed site.
>
> Fla. Admin. Code R. 14-60.005(5)(j).

The Federal Statutory and Regulatory Framework

By statute, the FAA has authority to regulate for safety; the efficient use of the airspace; protection of people and property on the ground; air traffic control; navigational facilities; and the regulation of aircraft noise at its source. 49 U.S.C. §§ 40103, 44502, and 44701-44735. Congress has directed the FAA to "develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace." 49 U.S.C. § 40103(b)(1). Congress has further directed the FAA to "prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes)" for navigating, protecting, and identifying aircraft; protecting individuals and property on the ground; using the navigable airspace efficiently; and preventing collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects. 49 U.S.C. § 40103(b)(2). Since 1926, Federal law has provided that a citizen of the United States has a public right of transit through the navigable airspace. 49 U.S.C. § 40103(a)(2).

In furtherance of these statutory commands, the FAA has established a comprehensive regulatory scheme, governing, among other things, the certification of aircraft, airports, pilots and mechanics; aircraft equipage; air traffic control systems; aviation navigation and communication; airspace classifications, and more. See generally 14 CFR parts 21-193. Part 91, "General Operating and Flight Rules," sets forth extensive requirements concerning, among other things, aircraft operations and the regulation of airport traffic patterns. *See, e.g.*, 14 CFR §§ 91.130(b); 93.119, 93.163, and 93.339(c) and (d).

Federal courts have upheld the Government's preemption of aircraft flight, including flight altitude and airport traffic patterns. *See, generally*, *Burbank v. Lockheed Air Terminal Inc*., 411 U.S. 624 (1973). "Common sense, of course, required that exclusive control of airspace allocation be concentrated at the national level, and communities were therefore preempted from attempting to regulate planes in flight." *British Airways Board v. Port Authority of New York and New Jersey*, 564 F.2d 1002, 1010 (2d Cir. 1977).

Under 14 CFR part 157, *Notice of Construction, Alteration, Activation, and Deactivation of Airports*, persons proposing to construct, alter, activate, or deactivate a civil airport (including heliports) or to alter the status or use of such an airport must provide notice to the FAA using Form 7480-1. The FAA then conducts an aeronautical study of an airport proposal and, after consultations with interested persons, issues a determination to the proponent ("no objection," "conditional," or "objectionable"). In its determination, the FAA considers matters such as the effects the proposed action would have on existing or contemplated traffic patterns of neighboring airports; the effects the proposed action would have on the existing airspace structure and projected programs of the FAA; and the effects that existing or proposed manmade objects (on file with the FAA) and natural objects within the affected area would have on the airport proposal. 14 CFR § 157.7(a). The purpose of an aeronautical study is to determine what effect the proposal may have on "… the safe and efficient utilization of the navigable airspace by aircraft, and the safety of persons and property on the ground." FAA Order JO 7400.2M, *Procedures for Handling Airspace Matters* (Jan. 28, 2019), ¶ 10-2-1(a). A complete study consists of "… an airspace analysis, a flight safety review, and a review of

the proposal's potential effect on air traffic control operations and air navigation facilities." ¶ 10-2-1(b).

While part 157 determinations consider the effects of the proposed action on the safe and efficient use of airspace by aircraft and the protection of persons and property on the ground, they "do[] not relieve the proponent of responsibility for compliance with any local law, ordinance or regulation, or state or other Federal regulation." 14 CFR § 157.7(a).

Analysis

The State's application of Rule 14-60.005 attempts to regulate the areas of aircraft safety, flight management, the protection of persons and property on the ground, and the efficiency of the navigable airspace. By conditioning approval of the proposed helicopter landing site on

> compli[ance] with all the requirements of Section 330.30, F.S., subject to any reasonable conditions necessary to protect the public health, safety, or welfare [such as] … operations limited to VFR flight conditions, restricted approach or takeoff direction from only one end of a runway, [and] specified air-traffic pattern layouts to help prevent mid-air collision conflict with aircraft flying at another nearby airport … (Rule 14-60.005(4)),

the Rule, through § 330.30, intrudes into an area fully occupied by the Federal Government, and therefore is preempted. 49 U.S.C. §§ 40103(a)(2), (b)(1) and (2); *Burbank*, 411 U.S. at 638-639; *Montalvo v. Spirit Airlines*, 508 F.3d 464, 473-474 (9th Cir. 2007) ("…federal law occupies the entire field of aviation safety. Congress' intent to displace state law is implicit in the pervasiveness of the federal regulations, the dominance of the federal interest in this area, and the legislative goal of establishing a single, uniform system of control over air safety."). The FAA's regulations in the areas of aviation safety and airspace efficiency are comprehensive. *See, e.g.*, 14 CFR §§ 91.130(b); 93.119, 93.163, and 93.339(c) and (d).

Under these principles, the State lacks the authority to regulate the safety of air traffic patterns, including whether traffic patterns between two nearby airports conflict; whether an airport can be used under instrument meteorological conditions; and runway operational usage. For example, in *Pirolo v. City of Clearwater*, 711 F.2d 1006, 1008 (11th Cir.1983), *reh'g denied*, 720 F.2d 688 (11th Cir. 1983), the court held that local ordinances prohibiting night operations and proscribing air traffic patterns were federally preempted and therefore violated the Supremacy Clause. U.S. Const. art. VI, cl. 2. In *Hoagland v. Town of Clear Lake*, 415 F.3d 693, 698 (7th Cir. 2005), a case involving the operation of a heliport on private property, the court noted, "[i]t would be unmanageable—say nothing of terrifying—to have local control of flight routes or of flight times. Such things require nationwide coordination." *See also Menard v. FAA*, 548 F.3d 353, 359–60 (5th Cir. 2008) ("[t]he FAA submits that … it has authority to establish non-standard traffic patterns, assign specific traffic pattern altitudes, or develop special operating procedures to mitigate potential airspace conflicts … We agree … Above all, adjusting air traffic patterns is part of the FAA's mandate. *See id*. § 40103(b)(1).").

Rule 14-60.005 requires that the applicant provide: (1) for proposed airport or seaplane landing facilities, a "list [of] all VFR airports and heliports within five nautical miles and all IFR airports within 20 nautical miles, or (2) for proposed heliports, a "list [of] all VFR airports and heliports within three nautical miles and all IFR airports within 10 nautical miles." Fla. Admin. Code R. 14-60.005(5)(e)(1)(2). The State also requires applicants to submit

> written confirmation, including a graphical depiction, demonstrating that safe air traffic patterns can be established for the proposed airport with all existing and approved airport sites within three miles of the proposed airport site [and provide] a copy of written memorandum(s) of understanding or letter(s) of agreement, signed by each respective party, regarding air traffic pattern separation procedures between the parties representing the proposed airport and any existing airport(s) or approved airport site(s) located within three miles of the proposed site.
>
> Fla. Admin. Code R. 14-60.005(5)(j).

Utilizing this air safety and airspace information to make determinations concerning the effects of the proposed landing facility or heliport on the safety of "all existing and approved airport sites" in the vicinity of the proposed site is beyond the scope of the State's authority.

Moreover, the State's assertion that its police power authority over "public health, safety, or welfare" would authorize it to determine whether to limit airport "operations … to VFR flight conditions, restricted approach or takeoff direction from only one end of a runway, [and] specified air-traffic pattern layouts to help prevent mid-air collision conflict with aircraft flying at another nearby airport" (Rule 14-60.005(4)) is without merit. State police power authority (including land use) does not permit regulation of aircraft safety, flight management, the protection of persons and property on the ground, or the efficiency of the navigable airspace. In *Burbank*, 411 U.S. at 638-639, the court held that Federal control over the management of airspace prevented the non-proprietor City of Burbank from exercising police power authority over aircraft operations. Noting that the "the Federal Aviation Act requires a delicate balance between safety and efficiency, and the protection of persons on the ground … The interdependence of these factors requires a uniform and exclusive system of federal regulation if the congressional objectives underlying the Federal Aviation Act are to be fulfilled," the court reasoned that the "pervasive control" vested in the Federal Government "seems to us to leave no room for local curfews or other local controls." *See also San Diego Unified Port District. v. Gianturco*, 651 F.2d 1306 (9th Cir. 1981), *cert. denied*, 455 U.S. 1000 (1982) (non-proprietor, police power curfews on aircraft flights preempted). State and local governments may protect their citizens through land use controls and other police power measures not affecting aircraft operations.

If you have any questions, please do not hesitate to contact Jonathan Cross, Senior Attorney for Airport Certification, Regulations Division, at (202) 267-7173.

Sincerely,

Lorelei Peter
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March 24, 2020

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Re: Interpretation of state law preempted by federal law

Dear Mr. Garg:

We are writing to you seeking an FAA Chief Counsel interpretation regarding a provision in the Florida state law pertaining to aviation and the licensing of airports in that state. The particular provision of the law that we bring to your attention seeks to control air traffic in the vicinity of Florida state licensed airports, and in our view, it is preempted by federal regulation governing the operation of aircraft in flight and the statutory authority of the Federal Aviation Administration (FAA) with exclusive sovereignty of airspace and the use of navigable airspace in the United States.

Specifically, our concern is with Chapter 14-60 of the Florida Administrative Code that refers to Airport Licensing, Registration, and Airspace Protection, which has a purpose, among others, to license and register airports and to promote flight safety by providing for airspace protection. While this purpose appears to conflict, at least in part, with FAA's exclusive authority, there is one provision in particular that appears to directly intrude into that federal authority. In that regard, Rule 14.60.005(5)(j) of the Code requires that in order to apply for an Airport Site Approval, the applicant must accomplish the following:

> Air Traffic Pattern. Provide written confirmation, including a graphical depiction, demonstrating that safe air traffic patterns can be established for the proposed airport with all existing and approved airport sites within three miles of the proposed airport site. Provide a copy of written memorandum(s) of understanding

> or letter(s) of agreement, signed by each respective party, regarding air traffic pattern separation procedures between the parties representing the proposed airport and any existing airport(s) or approved airport site(s) located within three miles of the proposed site.

Our law firm represents an airport landing site owner who has applied for state licensing. The effect of this provision in our circumstance is to mandate we obtain and submit written and signed memoranda or letters from approximately 12 aircraft landing sites that are within 3 miles of our proposed airport site. For the most part, these landing sites are uncontrolled, thus we may only be able to document the suggested, and maybe posted, traffic patterns at the respective airport. Otherwise, the flow of traffic is governed by communication with air traffic control or the rules of 14 C.F.R. Part 91, with no ability for the airport to control the flight of the aircraft.

Furthermore, in our circumstance, the FAA has already issued a Notice of Airport Airspace Analysis Determination – No Objection, after conducting an aeronautical study. The FAA determination states that their determination "is a determination with respect to the safe and efficient use of navigable airspace by aircraft and with respect to the safety of persons and property on the ground ... [including] ... consider[ation of] matters such as the effects the proposal would have on existing or planned traffic patterns of neighboring airports ..." The state of Florida has refused to accept this FAA determination as sufficient to meet their Rule requiring a demonstration of safe air traffic patterns for the proposed airport, even though it serves exactly the purpose of that Rule as determined by the federal agency with the sole control over airspace.

When the Florida state department has been questioned about this provision and the preemptive nature of the FAA's exercise of authority over the navigable airspace of these airports in South Florida, the response is that a signed memorandum is required in order to "deconflict" the airspace between the airport sites. The state is thus requiring that airport owners and operators, whether a governmental authority or private persons, agree between themselves as to the control of air traffic, at least in the vicinity or between their respective airports. Then, the state requires that demonstration of parties' control over air traffic be submitted to the state for consideration as appropriate to the issuance of a state license to the airport. Thus, the state of Florida is unquestionably regulating the control air traffic, which is beyond their authority and the individual airport's authority in the face of specific and clear statutory federal authority. Making matters more unfair and further demonstrating the state's preempted conduct, the Florida state law does not provide any enforcement mechanism or remedy should the airports refuse to execute an agreement or should the state refuse to accept such agreements, even when faced with an FAA determination and the FAA's regulations regarding such manner of operation.

Therefore, we ask that you review the Florida state code and provide us with an interpretation as to whether such code provision is preempted by the authority of the FAA.

Please do not hesitate to reach out to me if you have any questions or may ask to see additional documentation on this subject.

Sincerely,

Kathleen A. Yodice

Enclosures: Chapter 14-60 of the Florida Administrative Code
FAA Notice of Airport Airspace Analysis Determination, dated June 1, 2019
Email communication from Florida State Airport Inspection and Safety Manager

14-60.003 Purpose, Definitions, and Designation of Signature Authority.

(1) Purpose. The purpose of this rule chapter is to promote safe civil aviation by eliminating hazards; to provide airfield standards for airports; to provide standards for airport marking and lighting; to license and register airports, pursuant to the licensing and registration requirements of Chapter 330, F.S.; and to promote flight safety by providing for airspace protection, pursuant to the requirements of Chapter 333, F.S.

(2) Definitions.

(a) The definitions in Section 330.27, F.S., shall apply to this rule chapter.

(b) For purposes of this rule chapter the following additional terms are defined:

1. "Aeronautics" means transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation facilities, and air instruction.

2. "Airport Hazard" means any structure or tree or use of land that would exceed the federal obstruction standards and which obstructs the airspace required for the flight of aircraft in taking off, maneuvering, or landing or is otherwise hazardous to such taking off, maneuvering, or landing of aircraft and for which no person has previously obtained a permit or variance.

3. "Airport Hazard Area" means any area of land or water upon which an airport hazard might be established if not prevented.

4. "Applicant" means a person submitting an application for private or public airport site approval or public airport license.

5. "Approach Surface" means an area that surrounds and protects the landing approach area, which is longitudinally centered on the extended runway centerline and extends outward and upward from each end of the runway primary surface.

6. "Coefficient of Friction" ("Mu") means a value that is an indicator of the resistance to motion of two moving objects or surfaces that touch.

7. "Displaced Threshold" means a point on the runway beyond the threshold to re-designate the beginning portion of the runway available for landing, although the portion of pavement preceding a displaced threshold may be available for takeoffs in either direction and landings from the opposite direction.

8. "FATO" means the designated "Final Approach and Takeoff" area for helicopter operations.

9. "IFR" means the Federal Aviation Administration (FAA) established "Instrument Flight Rules," under which aircraft operate when meteorological conditions, ceiling, and/or visibility exist that are below the minimums for flight under visual flight rules.

10. "Local Government" means a city or county and shall include political subdivisions as defined in Section 333.01(9), F.S.

11. "Non-precision Instrument Runway" means a runway having an existing or planned instrument approach procedure using air navigation facilities with only horizontal guidance or area type navigation equipment for which a straight-in non-precision instrument approach procedure has been approved.

12. "Obstruction" means any existing or proposed manmade object or object of natural growth or terrain that violates federal obstruction standards.

13. "Pavement Condition Index" ("PCI") means a value that is an indicator of the integrity and viability of a runway surface with a focus on pavement cracking, swelling, rutting, and depressions.

14. "Precision Instrument Runway" means a runway having an existing or planned instrument approach procedure using an Instrument Landing System or a Precision Approach Radar.

15. "Primary Surface" means a surface area that surrounds and protects the landing area; the dimensions of which vary by type of landing area, weight of the landing aircraft, visibility, and the type of landing approach.

16. "Runway Safety Area" means a specified surface surrounding the runway that is prepared or suitable for reducing the risk of damage to airplanes in the event of an undershoot, overshoot, or excursion from the runway.

17. "Structure" means any object, constructed or installed by humans, including, but without limitation thereof, buildings, towers, smokestacks, utility poles, and overhead transmission lines.

18. "Threshold" means the beginning of that portion of the runway available for landing.

19. "TLOF" means the designated "Touchdown and Liftoff" area for helicopter operations.

20. "Transition Surface" means a surface area that surrounds and protects the lateral boundaries of the primary and approach surfaces, which extends outward and upward at right angles to the runway centerline and the extended runway centerline at specified ratios.

21. "Traverse Way" means any highway, roadway, waterway, railway, or other public or private surface transitway, that allows

for the passage of mobile objects.

22. "Utility Runway" means a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

23. "VFR" means FAA established "Visual Flight Rules" under which aircraft operate when favorable meteorological conditions, ceiling, or visibility exist that are above the minimums for flight under instrument flight rules.

24. "Visual Runway" means a runway intended solely for the operation of aircraft using visual approach procedures, with no planned straight-in instrument approach procedure designation.

(3) The State Aviation Manager is authorized to issue site approval orders and licenses, and to accept registrations for those airports subject to the licensing and registration requirements of Section 330.30, F.S., and to enforce the provisions of Chapter 330, F.S. Additionally, the State Aviation Manager is authorized to issue airspace obstruction permits subject to the requirements of Section 333.025, F.S., and to enforce the provisions of Chapter 333, F.S.

(4) All Department actions regarding the application for issuance, renewal, amendment, suspension, or revocation of site approval orders, and licenses and registrations shall be in accordance with Chapters 120 and 330, F.S., and this rule chapter. Additionally, all Department actions regarding the application for issuance of airspace obstruction permits shall be in accordance with Chapters 120 and 333, F.S., and this rule chapter.

Rulemaking Authority 330.29(4), 334.044(2) FS. Law Implemented 330.29, 330.30, 330.35, 333.065 FS. History–New 11-23-72, Amended 11-19-81, 1-8-85, Formerly 14-60.03, Amended 12-26-95, 2-11-97, 10-10-04.

14-60.006 Airport Licenses and Registrations.

(1) Licensing and Registration Requirement. Except for the exemptions provided in Rule 14-60.003, F.A.C., above, or in the event of an in-flight emergency, the owner or lessee of any airport in the state of Florida shall have either an airport license or airport registration prior to the operation of aircraft at the site. Application for a license or registration shall be made in a format and manner prescribed by the Department. There are no monetary fees required for airport licensing or registration services.

(a) Public Airport. Public airports shall be licensed after the site approval is granted by the Department, including completion of the public announcement and physical airport inspection process, if the Department finds the facility to be in compliance with all requirements for the license. The license shall be subject to any conditions that are necessary to protect the public health, safety, or welfare. Such conditions shall include the requirement to remove natural growth obstructions, relocate aircraft parking sites beyond runway protective boundaries, or provide aircraft warning lights on structures in close proximity to the runway or potential ground hazards.

(b) Private Airport. Private airports shall be registered on the Private Airport Registration and Site Approval Website (http://www.florida-aviationdatabase.com) after the site approval is granted by the Department, including completion of the public announcement process, if the facility is in compliance with all requirements for registration, including self-certification by the registrant of operational and configuration data necessary to ensure compliance with Chapter 330, F.S., and this rule chapter.

1. Private airport owners who have previously received airport site approval through that process will subsequently use their "User ID" and "Password" to access the private airport registration screen available online.

2. The private airport registration screen includes information regarding the private airport: facility name, type of facility, dates related to the site approval process, dates related to the registration process (including expiration date); contact name, address, phone and fax numbers, and e-mail address; facility and runway data.

3. The user certifies the accuracy of the information and data entered on the screen and submits the information to the Department.

4. Private airport owners are encouraged to provide updates of airport and contact information at any time it occurs to ensure the Department has accurate and current information. Any update automatically renews the airport's registration for a two-year period from the date of update and that information will be reflected on the website, including a new expiration date.

5. Information regarding the facility's location with respect to county, latitude, longitude, and field elevation can only be updated directly by the Department in order to ensure compatibility of critical data with the FAA's airport database. Private airport owners should contact the Department to make any changes in this facility data.

(c) Temporary Airport. Temporary public or private airports shall be initially licensed or registered, respectively, after the site approval is granted by the Department, if the Department finds that the airport will not endanger the public health, safety, or welfare and the airport meets the temporary airport requirements established by the Department.

(2) Airport Licensing. The following provisions apply to airport licensing:

(a) Each airport license shall show its effective date and expiration date, which shall be no later than one year after the effective date of the license. However, the Department is authorized to adjust the expiration date of a license to provide a maximum license period of 18 months if necessary to facilitate airport inspections, recognize seasonal operations, or improve administrative efficiency.

(b) The airport owner or lessee is responsible for requesting annual renewal of the airport license, coordinating an airport inspection, and correcting any airport deficiencies in sufficient time in advance to preclude license expiration. Written renewal requests shall be submitted to the Airport Inspection and Safety Manager at the address above in paragraph 14-60.005(3)(a), F.A.C., by the public airport owner, lessee, or manager at least 90 days prior to the license expiration date.

(c) The Department or its authorized representative will coordinate with the airport owner, lessee, or manager to establish a date and time for the annual inspection. The airport owner, lessee, manager, or a designated representative of the airport shall be made available to accompany the inspector at the time of the inspection in order to participate in the airport inspection. The Department's authorized representative shall have the authority to conduct an inspection of the airport at any time with or without advance notification to the airport owner, lessee, or manager and with or without being accompanied by the airport owner, lessee, manager, or designated representative.

(d) An airport license shall be renewed following a favorable physical inspection, if the Department finds the facility to be in compliance with all requirements for the license.

(e) Any anticipated change in ownership of the airport shall be reported, in writing, to the Airport Inspection and Safety

Manager in the Department at the address in paragraph 14-60.005(3)(a), F.A.C., above, at least 90 days prior to the effective date of change of ownership or as soon as possible in order to initiate the license renewal process in the name of the new owner and to ensure the airport license is not allowed to expire.

(f) All airport licenses issued under this section, together with any conditions attached thereto, shall be posted in a prominent place at the airport, accessible to the public. Any limitations on the use of the airport shall be posted adjacent to or on the license.

(g) The Department shall only license an airport that meets established standards unless the Department determines that an airport's exception to established standards is justified by unusual circumstances or is in the interest of public convenience and does not endanger the public health, safety, or welfare. Such a license shall bear the designation "Special" and shall state the conditions to which the license is granted.

(h) Any licensed airport limited exclusively to the specific, reasonable conditions stated on its airport license, necessary to protect public health, safety, or welfare, shall be designated a "Limited Airport."

(3) Airport Registration. The following provisions apply to airport registration:

(a) The expiration date of the current registration period will be clearly identifiable from the state aviation facility data system. The ability to re-certify registered airport data shall be available at all times by electronic submittal, using controlled access, via the Department interactive website.

(b) A private airport registration that has not been re-certified in the 24-month period following the last certification shall expire, unless the Department has adjusted the registration period for purposes of informing private airport owners of their registration responsibilities or promoting administrative efficiency.

(c) Registration of an airport shall remain valid provided specific contact information and airport data elements, as required by the Department, are periodically re-certified by the airport registrant; including data related to the airport owner/lessee and facility, e.g., owner/lessee name and mailing address, airport name and physical location address, phone, fax, e-mail, and number of runways with length, width, and surface type.

(d) Any registered airport limited exclusively to the specific conditions stated on its airport registration necessary to protect public health, safety, or welfare, shall be designated a "Limited Airport."

(4) Private Airport "Licensing Option." The following provisions are applicable to the option for a private airport to request airport licensing in lieu of airport registration:

(a) Any private airport with ten or more based aircraft may request to be licensed by the Department, in lieu of registration.

(b) Private airport owners shall provide written correspondence to the Airport Inspection and Safety Manager of the Department at the address in paragraph 14-60.005(3)(a), F.A.C., above, to request this option.

(c) Any eligible private airport, choosing this option, shall be subject to all of the inspection and licensing procedures contained in this rule chapter that are applicable to all licensed airports.

(d) Department airport licensing standards against which a private airport will be evaluated and will be held accountable in the inspection and airport licensing process shall be the same as those airport standards that are applicable to all licensed airports.

(e) In the case of a proposed new private airport choosing this option for inspection and licensing, the site approval process by the Department shall be in accordance with the procedures contained in this rule chapter for all registered private airports.

(f) Airports licensed according to this exception shall be considered private airports, as defined in Section 330.27, F.S., in all other respects and shall not be open for public use.

(g) Any private airport having been previously licensed at its request under this option, which is later unable to continue to comply with airport licensing standards or is unable to maintain the required number of based aircraft shall be reverted by the Department from a licensed airport to registered airport category.

(h) Any private airport having been previously licensed at its request under this option, which subsequently desires to withdraw its prior request to be licensed, shall provide written correspondence to the Airport Inspection and Safety Manager in the Department at the address in paragraph 14-60.005(3)(a), F.A.C., above, to request this private airport be reverted from a licensed airport to the registered airport category.

(5) Temporary Airports. The following provisions apply to temporary, public or private airports:

(a) A temporary, public or private airport license or registration shall be valid only for less than 30 consecutive calendar days.

(b) A temporary, public or private airport license or registration shall not be renewable for any consecutive periods of activation. Recurring requirements for temporary, public or private airport license or registration for an airport at the same general location will be considered by the Department on a case-by-case basis.

(6) Conditions for Revoking a License or Registration. The Department will revoke or refuse to allow or issue any airport license or license renewal, or any airport registration or re-certification, if the Department determines that any of the following conditions exist or apply:

(a) That the airport registration has not been accomplished within 15 days after the date of expiration.

(b) That the Department has not received an application for renewal of an airport license within 15 days after the date of expiration.

(c) That the site has been abandoned as an airport.

(d) That the airport does not comply with the conditions of the license, license renewal, or site approval.

(e) That the airport has become either unsafe or unusable for flight operations due to the physical or legal changes in conditions that were the subject of approval.

Rulemaking Authority 330.29(4), 334.044(2) FS. Law Implemented 330.29, 330.30 FS. History–New 10-29-65, Amended 7-13-71, 11-23-72, 6-23-76, 11-19-81, 1-8-85, Formerly 14-60.06, Amended 12-26-95, 2-11-97, 10-10-04.

Federal Aviation Administration

June 01, 2019

TO:
Emilio T. Gonzalez, City Manager
444 SW 2nd Avenue
Miami, FL 33130
etgonzalez@miamigov.com

CC:
George K. Wysong III, Division Chief
Office of the City Attorney, City of Miami
444 SW 2nd Avenue
Miami, FL 33130
GWysong@miami-police.org

NOTICE OF AIRPORT AIRSPACE ANALYSIS DETERMINATION
ALTER PUBLIC USE AIRPORT
****NO OBJECTION****

The Federal Aviation Administration(FAA) has conducted an aeronautical study under the provisions of Title 14 of the Code of Federal Regulations, Part 157, concerning:

RE: *(See attached Table 1 for referenced case(s))*

Table 1 - Letter Referenced Case(s)

ASN	Prior ASN	Airport Name	Description	Location	Latitude (NAD83)	Longitude (NAD83)	Airport Elevation (feet)
2018-ASO-2772-NRA		MIAMI	This proposal is for the alteration of landing and take-offs at a established helipad on X44 in Miami Watson Island, FL. The landing area proposal (7480) associated with this case is 2018-ESA-35-LAP. (see attachment for details)	MIAMI, FL	25-46-58.02N	80-10-34.84W	6

The heliport should be maintained in accordance with FAA Advisory Circular (AC) 150/5390-2C. The TLOF, FATO, and Safety Area to support a Bell 412EP (reference submitted FAA Form 7480-1).

The proponent refers to FAA AC 150/5390-2C, in establishing an acceptable level of safety for helicopter operations at this heliport.

The landing area is limited to DAY/VFR private use. Night helicopter operations are not authorized unless the takeoff/landing area and wind indicator are lighted.

A non-obstructing wind indicator is maintained adjacent to the takeoff/landing area.

The takeoff/landing area is appropriately marked, including proper size "H", proper size of touchdown position circle, gross weight and overall length markings, and properly aligned with the preferred approach and departure routing.

The landing surface is secured, unbroken, and able to support the dynamic load. All Helicopter approach/ departure route operations are conducted on a 150 degrees clockwise to 260 degrees egress (departure) heading using the center of the proposed TLOF as a reference point.

Flights over watercraft including docked cruise ships not recommended.

Any heliport on-site aircraft refueling operations should be conducted in accordance with FAA guidelines, National Fire Protection Pamphlet (NFPA) 418 and local Fire Marshall recommendations. Fire protection is provided in accordance with the NFPA 418, local fire code and AC 150/5390-2C.

Unauthorized persons are restrained from access to the takeoff/landing area during helicopter flight operations by use of a non-obstructing safety barrier. This barrier must remain outside the safety area and not penetrate the VFR departure/approach (8:1/2:1) surface.

The heliport proponent will reexamine obstacles in the vicinity of the approach/departure paths on an annual basis in accordance with AC 150/5390-2C. Any new obstacles noted will be forwarded to the Airport District Office, Flight Standards District Office or Flight Technologies and Procedures/NextGen Branch.

Our aeronautical study has determined that the proposed alteration will not adversely affect the safe and efficient use of navigable airspace by aircraft. We do not object to the proposal.

This determination does not constitute FAA approval or disapproval of the physical development involved in the proposal. It is a determination with respect to the safe and efficient use of navigable airspace by aircraft and with respect to the safety of persons and property on the ground. In making the determination, the FAA has considered matters such as the effects the proposal would have on existing or planned traffic patterns of neighboring airports, the effects it would have on the existing airspace structure and projected programs of the FAA, the effects it would have on the safety of persons and property on the ground, and the effects that existing or proposed manmade objects (on file with the FAA) and known natural objects within the affected area would have on the airport proposal.

This aeronautical study was not circulated to the public for comments.

The FAA cannot prevent the construction of structures near an airport. The airport environment can only be protected through such means as local zoning ordinances, acquisitions of property in fee title or aviation easements, letters of agreements, or other means. This determination in no way preempts or waives any ordinances, laws, or regulations of any government body or agency.

The Airport Master Record can be updated by submitting a revised 5010-1 Form to your FAA Regional Office or Airports District Office. The Airport Master Record can be accessed online at http://www.gcr1.com/5010web/ . FAA contact information can be found at https://www.faa.govhttps://www.faa.gov/about/office_org/headquarters_offices/arp/regional_offices/.

Aeronautical Data can be updated by submitting changes to National Flight Data Center at https://nfdc.faa.gov/xwiki/bin/view/NFDC/Submit+Aeronautical+Data .

Be advised, in accordance with 14 CFR Part 157, any construction, alteration to or abandonment of the subject airport requires notice to the FAA for aeronautical review. Notice for these actions can be given using FAA Form 7480-1, "Notice for Construction, Alteration and Deactivation of Airports" and returned to my attention. Any proposed construction meeting the notice requirements of 14 CFR Part 77 must be submitted via online at http://oeaaa.faa.gov .

In order to avoid placing any unfair restrictions on users of the navigable airspace, this determination is valid until 01/01/2021. If the Airport Master Record Form is not returned by 12/15/2020, then a written request for an extension should be received by 12/18/2020.

If you have any questions concerning this determination or completion of the Airport Master Record form, please contact me at pedro.blanco@faa.gov or at (407) 487-7230.

Sincerely,

Pedro Blanco

ADO

Signature Control No: 367239352-407292704

Attachment: Airport Master Record 5010 Form

cc:
Land-Use Manager, FDOT/Central Office

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

AIRPORT MASTER RECORD

PRINT DATE: 06/01/2019
AFD EFF
Form Approved OMB 2120-0015

> 1 ASSOC CITY: MIAMI
> 2 AIRPORT NAME: MIAMI
3 CBD TO AIRPORT (NM): 2 E
4 STATE: FL
6 REGION/ADO: ASO/ORL
LOC ID: X44
5 COUNTY:
7 SECT AERO CHT: MIAMI
FAA SITE NR: 03324.1

GENERAL

10 OWNERSHIP:	PU
> 11 OWNER:	CITY OF MIAMI
> 12 ADDRESS:	1000 MACARTHUR CAUSEWAY MIAMI SEAPLANE BASE MIAMI FL 33132
> 13 PHONE NR:	305-442-4444
> 14 MANAGER:	IGNACIO VEGA-PENICHET
> 15 ADDRESS:	MIAMI SPB 1000 MACARTHUR CAUSEWAY MIAMI FL 33132
> 16 PHONE NR:	305-305-8066
> 17 ATTENDANCE SCHEDULE:	
MONTHS DAYS HOURS	

SERVICES

70 FUEL:	
> 71 AIRFRAME RPRS:	NONE
> 72 PWR PLANT RPRS:	NONE
> 73 BOTTLE OXYGEN:	NONE
> 74 BULK OXYGEN:	NONE
75 TSNT STORAGE:	
76 OTHER SERVICES:	

BASED AIRCRAFT

90 SINGLE ENG:	0
91 MULTI ENG:	0
92 JET:	0
TOTAL:	0
93 HELICOPTERS:	0
94 GLIDERS:	0
95 MILITARY:	0
96 ULTRA-LIGHT:	0

FACILITIES

> 80 ARPT BCN:	
> 81 ARPT LGT SKED:	
> 82 UNICOM:	122.8
> 83 WIND INDICATOR:	Y
84 SEGMENTED CIRCLE:	N
85 CONTROL TWR:	NO
86 FSS:	
87 FSS ON ARPT:	NO
88 FSS PHONE NR:	
89 TOLL FREE NR:	

OPERATIONS

100 AIR CARRIER:	0
102 AIR TAXI:	1,950
103 G A LOCAL:	0
104 G A ITNRNT:	0
105 MILITARY:	0
TOTAL:	1,950
OPERATIONS FOR 12 MONTHS ENDING	05/02/2018

18 AIRPORT USE:		Public		
19 ARPT LAT:		25-46-42.0000N Estimated		
20 ARPT LONG:		80-10-13.0000W		
21 ARPT ELEV:		6.0 Estimated		
22 ACREAGE:		2		
> 23 RIGHT TRAFFIC:				
> 24 NON-COMM LANDING:		NO		
25 NPIAS/FED AGREEMENTS:		N		
> 26 FAR 139 INDEX:				

RUNWAY DATA

> 30 RUNWAY IDENT:		X44	12W/30W	H1
> 31 LENGTH:		50	14000	50
> 32 WIDTH:		50	200	50
> 33 SURF TYPE-COND:		CONC	WATER	CONC-EXCELLENT
> 34 SURF TREATMENT:				
35 GROSS WT:	SW	0.0	0.0	0.0
36 (IN THSDS)	DW	0.0	0.0	0.0
37	DTW	0.0	0.0	0.0
38	DDTW	0.0	0.0	0.0
> 39 PCN:				

LIGHTING/APCH AIDS

> 40 EDGE INTENSITY:	
> 42 RWY MARK TYPE-COND:	/
> 43 VGSI:	/
44 THR CROSSING HGT:	0 / 0
45 VISUAL GLIDE ANGLE:	0.0 / 0.0
> 46 CNTRLN-TDZ:	- / -
> 47 RVR-RVV:	- / -
> 48 REIL:	/
> 49 APCH LIGHTS:	/

OBSTRUCTION DATA

50 FAR 77 CATEGORY:	A(V) / A(V)
> 51 DISPLACED THR:	0 / 0
> 52 CTLG OBSTN:	/
> 53 OBSTN MARKED/LGTD:	/
> 54 HGT ABOVE RWY END:	/
> 55 DIST FROM RWY END:	/
> 56 CNTRLN OFFSET:	/
57 OBSTN CLNC SLOPE:	/
58 CLOSE-IN OBSTN:	/

DECLARED DISTANCE

> 60 TAKE OFF RUN AVBL (TORA):	0 / 0
> 61 TAKE OFF DIST AVBL (TODA):	0 / 0
> 62 ACLT STOP DIST AVBL (ASDA):	0 / 0
> 63 LNDG DIST AVBL (LDA):	0 / 0

(>) ARPT MGR PLEASE ADVISE FSS IN ITEM 86 WHEN CHANGES OCCUR TO ITEMS PRECEDED BY >

111 INSPECTOR: ( ) 112 LAST INSP: 113 LAST INFO REQ:

LINDEN AIRPORT

From: "Smith, David P" <DavidP.Smith@dot.state.fl.us>
To: "Carey, Michael" <Michael.Carey@kimley-horn.com>
Cc: <lindenairport@msn.com>; "Roberts, David" <david.roberts@dot.state.fl.us>; "O'Rourke, Gerard" <Gerard.ORourke@dot.state.fl.us>; "Smith, Aaron" <aaron.smith@dot.state.fl.us>
Sent: Tuesday, August 06, 2019 9:33 AM
Attach: FAA Heliport Dimension Tool.pdf; Coral Gables letter.pdf
Subject: RE: Watson Island Heliport Public Site Approval Application

Good Morning Mr. Carey,

The Department has completed the review of the Public-Use Airport Site Approval Application for Watson Island Heliport. Overall, the application is very well put together, and there are only a few issues noted that prevents the Department from moving forward with site approval at this time. The following items require your action and/or response:

- **Exhibit B:** Pursuant to Chapter 14-60.005(5)(b) - Location Map. Provide a scale drawing showing the size and dimensions of the proposed facility; property rights of way and easements; lighting, power, and telephone poles; location of building(s) on property and surrounding areas; and direction, distance, and height of all structures over 25 feet within 1,000 feet of the site perimeter.

The diagram provided depicts an insufficient spacing of the TLOF and FATO based on the design aircraft. The TLOF and FATO separation required is 19.15 feet. So, with a 50' x 50' TLOF that makes the FATO a required 88.3' x 88.3'. Adding another 20 feet for the safety area, brings the dimensions of the safety area to 128.3' x 128.3'. The diagram in the upper right hand side of Exhibit B should be updated to the larger dimensions. Attached is a screenshot of an FAA heliport dimension tool highlighting spacing requirements. If the FATO is still partially marked, the FATO will be considered not marked. In the future, if the FATO does become fully marked, it should be marked with the proper 19.15 foot separation from the 50' x 50' TLOF.

- **Exhibit E:** Pursuant to Chapter 14-60.005(5)(e) - Aviation Facilities. Provide a list of names and mailing addresses for adjacent airports, including a sample copy of the letter submitted as proposal notification to these airports, and attach a copy of all airport reply correspondence.

1. For a proposed airport or seaplane landing facility, list all VFR airports and heliports within five nautical miles and all IFR airports within 20 nautical miles.

2. For a proposed heliport, list all VFR airports and heliports within three nautical miles and all IFR airports within 10 nautical miles.

An additional helicopter facility has obtained an airport site approval order since the last time Exhibit E was updated. One Thousand Museum Tower Helipad is located at 1000 Biscayne Boulevard, Miami, FL 33132. Notification needs to be given to this planned aeronautical facility and the list of nearby airports in Exhibit E should be updated along with a copy of the notification letter sent and responses. The primary contact the we have for the heliport is: Ray Syms with HeliExperts International, LLC and his mailing address we have on file is 489 Broadway, Long Branch, NJ 07740

- **Exhibit F:** Pursuant to Chapter 14-60.005(5)(f) - Local Government. Provide a copy of each of the letters of notification, showing the recipient's name and mailing address, that have been submitted to each zoning authority having jurisdiction, for the municipality and county in which the site lies or which is located within five nautical miles of the proposed airport site. The applicant shall also include a copy of all related correspondence from each city or county authority, including a statement that the proposed airport site is in compliance with local zoning requirements or that such requirements are not applicable.

The letter to Ramon Trias with the City of Coral Gables has random letters, numbers, and symbols in the text and does not make sense (see attached). Please submit a corrected copy of the letter sent to Mr. Trias to our office. Also, an approval letter from the local zoning authority having jurisdiction over the site was not included in the application package per 14-60.005(5)(f). A letter from the local zoning authority stating that the proposed airport site is a compatible land-use and that the proposed site meets local zoning requirements needs to be submitted so that it can be included with the application.

- **Exhibit J:** Pursuant to Chapter 14-60.005(5)(j) - Air Traffic Pattern. Provide written confirmation, including a graphical depiction, demonstrating that safe air traffic patterns can be established for the proposed airport with all existing and approved airport sites within three miles of the proposed airport site. Provide a copy of written memorandum(s) of understanding or letter(s) of agreement, signed by each respective party, regarding air traffic pattern separation procedures between the parties representing the proposed airport and any existing airport(s) or approved airport site(s) located within three miles of the proposed site.

-

- The signed letter of memorandum to deconflict the airspace between Miami Seaplane Base (X44) and the proposed Watson Island Heliport is signed by a representative of the City of Miami (property owner) and does not appear to have been coordinated with the owner/operator of the seaplane base. This letter of agreement should also be signed by the owner/operator of Miami Seaplane Base (X44), as they have the actual physical operational control over the facility and the seaplane base operations.
- No written memorandum(s) of understanding or letter(s) of agreement were included for

the other numerous facilities within 3 miles of Watson Island Heliport. Per 14-60.005(5)(j) these letters of agreement or MOU's are required for all facilities within 3 miles of the proposed site.

- Additionally, the diagram of nearby facilities needs to be updated to add the proposed One Thousand Museum Tower Helipad.

- **Exhibit K:** Pursuant to Chapter 14-60.005(5)(m) - FAA Approval. Provide a copy of the notification to the FAA regarding the proposed airport site and a copy of the FAA's airspace approval correspondence given in response.

On the FAA's Airspace Determination Letter (ASN:2018-ASO-2772-NRA) the 3rd paragraph under Table 1 on Page 1 states, "The landing area is limited to DAY/VFR private use." That condition makes this a private-use only facility and is inconsistent with the FDOT Public Airport Site Approval Application for a public-use facility. Contact should be made with Mr. Pedro Blanco with the Orlando ADO to correct or clarify the FAA's condition. On page 2 of the letter it references refueling operations should be conducted in accordance with NFPA 418. NFPA 418 appears to be standards for fire protection at heliports. NFPA 407 is the standards for aircraft fuel servicing and may be more appropriate to reference here. At the very least, the FAA's condition for private-use on the determination letter should be clarified and/or corrected. If that condition was placed there in error, please submit an updated FAA determination letter to our office.

Please submit updated documents addressing the above concerns at your earliest convenience and the supporting documentation for the application will be updated. Please do not hesitate to contact me if you have any questions. Thanks in advance for your help.

David P. Smith, ACE, CPM

Airport Inspection and Safety Manager

Aviation Operations

Aviation and Spaceports Office

Florida Department of Transportation

605 Suwannee Street, MS 46

Tallahassee, FL 32399-0450

E-Mail: DavidP.Smith@dot.state.fl.us