

Memorandum of Agreement  
Among  
The Federal Aviation Administration  
Taos Pueblo  
The Town of Taos  
The Advisory Council on Historic Preservation  
The New Mexico State Historic Preservation Officer  
The New Mexico Department of Transportation, Aviation Division  
and  
The National Park Service  
Regarding  
Airport Layout Plan Revision Approval  
and  
Federal Funding Considerations  
at  
Taos Regional Airport, Taos, New Mexico

**WHEREAS**, the Federal Aviation Administration (FAA), the lead Federal agency for this Undertaking, is considering the Town of Taos' request to approve proposed revisions to the Airport Layout Plan for the Taos Regional Airport at Taos, New Mexico (Airport), pursuant to Title 49 sections 47106 and 47107 relating to eligibility for funding for proposed runway improvements at the Airport; and

**WHEREAS**, the proposed Undertaking consists of: constructing a new runway that would be 8,600-feet long and 100-feet wide; shortening existing Runway 4/22 by 420 feet, with an associated shift of the Runway Safety Area (RSA), Runway Free Object Zone (ROFA), and Runway Protection Zone (RPZ) a similar distance to the northeast; building a new 3,200-foot long airport access road; and lengthening the existing 2,800-foot long access road from the existing parking lot to the large hangar area all as described on page 1-1 of the Final Environmental Impact Statement (FEIS) that the FAA has prepared for the Undertaking; and

**WHEREAS**, Section 40103(a) of Title 49 of the United States Code grants the United States Government exclusive sovereignty of airspace of the United States; and

**WHEREAS**, Section 40103(b) of Title 49 of the United States Code grants the FAA Administrator the authority to develop plans and policies 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; and

**WHEREAS**, FAA has determined that the approval of proposed revisions to the Airport Layout Plan for the Airport is an Undertaking subject to review under Sections 106 and 110 of the National Historic Preservation Act (NHPA)[16 U.S.C. 470(f) and 470(h)-2(f)] and their implementing regulations, "Protection of Historic Properties" (36 CFR Part 800) and "World Heritage Convention" (36 CFR Part 73); and

**WHEREAS**, the FAA and Taos Pueblo, as a Federally recognized sovereign American Indian Tribe, have conducted Government-to-Government consultations regarding this Undertaking; and

**WHEREAS**, the Taos Pueblo Tribal Government is responsible for the protection of its people, its land, its natural and cultural resources, and its way of life that are affected by such aircraft operations; and

**WHEREAS**, Taos Pueblo members have lived continuously in the Taos Valley and adjacent areas since time immemorial and continue to maintain a living culture, nurtured by the surrounding lands and natural and cultural resources, that has sustained the Tribe over the centuries; and

**WHEREAS**, Taos Pueblo and the National Park Service (NPS) have consulted with the FAA in its National Environmental Policy Act (NEPA) process on the proposed Undertaking as cooperating agencies; and

**WHEREAS**, the Advisory Council on Historic Preservation (ACHP) is an independent Federal agency that provides guidance and advice on the application of the regulations implementing Section 106 of the National Historic Preservation Act (Section 106) and generally oversees the Section 106 process; and

**WHEREAS**, the Department of the Interior (DOI), through the NPS, is responsible for National Historic Landmarks under Section 101 of the NHPA and consults with Federal agencies on undertakings adversely affecting those Landmarks; and

**WHEREAS**, the DOI, through the NPS, is responsible for directing and coordinating the United States' participation in the World Heritage Convention in the United States and consulting with Federal agencies on undertakings adversely affecting the Nation's World Heritage Sites; and

**WHEREAS**, the New Mexico State Historic Preservation Officer (SHPO) administers programs to preserve and protect the historical and cultural heritage of the State of New Mexico for the benefit of present and future generations under the NHPA and the following state statutes: New Mexico Cultural Properties Act (codified at NMSA 1978 §§ 18-6-1 et seq.), the New Mexico

Prehistoric and Historic Sites Protection Act (NMSA 1978 §§ 18-8-1 et seq.), and the New Mexico Cultural Properties Protection Act (NMSA §§ 18-6A-1 et seq.); and

**WHEREAS**, the New Mexico Department of Transportation Aviation Division (NMDTAD) and the Town of Taos constitute political subdivisions of the State of New Mexico for the purposes of § 18-6-8.1, NMSA 1978/4.10.7 NMAC and § 18-8-7, NMSA 1978/4.10.12 NMAC and § 18-6A-5, NMSA 1978 and have carried out consultations as required under these State statutes concerning the effects of the airport improvements on registered cultural properties; and

**WHEREAS**, the Town of Taos, the owner and operator of the Airport, and the NMDTAD each agree to provide 2.5% of the total cost of the proposed Undertaking as local matches to any Federal grant funding; and

**WHEREAS**, the FAA, in consultation with Taos Pueblo and other consulting parties, has defined the Undertaking's area of potential effects (APE) as described in Figure 2, Appendix Q, FEIS (see attached Figure); and

**WHEREAS**, the FAA, in consultation with the ACHP, Taos Pueblo, the SHPO, the Town of Taos, and the NPS, has determined that this proposed Undertaking would adversely affect properties listed on and eligible for listing on the National Register of Historic Places (National Register) as discussed below; and

**WHEREAS**, Taos Pueblo has numerous ancestral homesites and cultural sites and areas, which it has identified in the APE and which are in continuous use; and

**WHEREAS**, the FAA, in consultation with Taos Pueblo and the SHPO, has determined that the entire APE would be treated as a National Register-eligible historic district as described in Appendix Q of the FEIS for purposes of this Undertaking; and

**WHEREAS**, one of those affected properties is Taos Pueblo, a World Heritage Site inscribed in the United Nations' Education, Scientific, and Cultural Organizations' World Heritage Convention; a designated National Historic Landmark under Section 101 of the National Historic Preservation Act; and a property listed on the National Register; and

**WHEREAS**, the multi-story dwellings at Taos Pueblo are remarkable examples of traditional architectural structures maintained and lived in continuously by the Taos Pueblo community for centuries; and

**WHEREAS**, Taos Pueblo is unique in that it is one of only eight cultural World Heritage Sites in the United States, and none other is comparably recognized for its ongoing way of life and living culture; and

**WHEREAS**, because of Taos Pueblo's unique status among World Heritage Sites in the United States, the conditions in this Agreement apply only to this proposed Undertaking and are not intended to establish precedent for any existing or future FAA undertakings; and

**WHEREAS**, Article 5 of the Convention Concerning the Protection of the World Cultural and Natural Heritage, which the United States Senate ratified in 1973, requires each state party to take, in so far as possible, the appropriate legal, scientific, technical, administrative, and financial measures necessary to identify, protect, conserve, rehabilitate, and preserve World Heritage Sites; and

**WHEREAS**, in December 1970, the United States Congress declared to be held in trust for Taos Pueblo an area, now known as the Blue Lake Wilderness Area, totaling approximately 48,000 acres, recognizing that Taos Pueblo has depended upon these lands since time immemorial for traditional and cultural uses including hunting, water supply, forage for their domestic livestock, wood, timber and other natural resources for their personal use, and religious ceremonies, and providing for use for Taos Pueblo traditional purposes only (Pub. L. No. 91-550); and

**WHEREAS**, in January 1996, the United States Congress transferred to the Secretary of Interior to be held in trust for Taos Pueblo an area known as the Path of Life Area, totaling approximately 764 acres and held in trust by the United States, to be managed as part of the Blue Lake Wilderness Area (Pub. L. No. 104-333, Section 210); and

**WHEREAS**, Taos Pueblo has declared that the Blue Lake Wilderness Area, located adjacent to the Taos Pueblo World Heritage Site, is integral to sustaining Taos Pueblo's traditional living culture; and

**WHEREAS**, the FAA has consulted with the ACHP, Taos Pueblo, the NPS, the SHPO, and the Town of Taos about the Undertaking pursuant to 36 CFR Parts 73 and 800; and

**WHEREAS**, the FAA, in consultation with the ACHP, Taos Pueblo, the SHPO, the Town of Taos, and the NPS, has determined that the proposed Undertaking will cause an increase in the number of uncontrolled flights (i.e., low altitude, general aviation flights) over portions of the historic district; and

**WHEREAS**, with respect to the National Register-eligible Historic District, and as stated in the FAA's Finding of Effect (page 18, Appendix Q, FEIS), "Given the low ambient noise levels

within most parts of the district, the contemplative nature of activities at some of the contributing properties, the frequent use of many of the contributing properties, and the importance of the historic district in maintaining the continuing cultural identity of Taos Pueblo, the FAA finds that these changes [‘small increases in noise levels, overflights and visual impacts at some of the 80 identified traditional cultural properties and the Rio Grande gorge’] would diminish the district’s integrity of setting, feeling, and association and would therefore be an adverse effect,” and

**WHEREAS**, the FAA, in consultation with the ACHP, Taos Pueblo, the SHPO, the Town of Taos, and the NPS, has determined that the proposed Undertaking will cause adverse effects due to increased uncontrolled flights over the Taos Pueblo World Heritage Site that could diminish the Site’s integrity of setting and feeling, and impact Taos Pueblo’s living culture; and

**WHEREAS**, the FAA, in consultation with the ACHP, Taos Pueblo, the SHPO, the Town of Taos, and the NPS, has further determined that this proposed Undertaking will cause aircraft to fly along new flight tracks modeled by the FAA to simulate paths of aircraft using the Airport; and

**WHEREAS**, the FAA, in consultation with the ACHP, Taos Pueblo, the SHPO, the Town of Taos, and the NPS, has determined aircraft using those new flight tracks will adversely diminish the district’s integrity of setting and feeling due to increases in noise levels and visual impacts at some of the contributing properties within the Taos Pueblo National Register-eligible historic district, defined in Appendix Q to the FEIS to be coextensive with the APE, that could diminish the district’s integrity of setting and feeling resulting in an adverse affect; and

**WHEREAS**, Taos Pueblo is a signatory to this Agreement because the proposed Undertaking will affect historic properties, including those of traditional Taos Pueblo religious and cultural significance, on Taos Pueblo lands and elsewhere in the APE, and participated in consultations, including Government-to-Government consultations, regarding this proposed Undertaking; and

**WHEREAS**, the Town of Taos, as owner and operator of the Airport, has participated in the consultations regarding this proposed Undertaking and is an invited signatory to this Agreement; and

**WHEREAS**, the NPS and NMDTAD have participated in consultations and have been invited to concur in this Agreement; and

**WHEREAS**, the FAA provided information about the proposed Undertaking to the Jicarilla Apache Nation and the Ute Mountain Ute Tribe and invited them to participate in consultations; however, neither tribe has elected to participate in consultations for this Undertaking; and

**WHEREAS**, the consulting parties acknowledge that Taos Pueblo and the Town of Taos intend to pursue formal means, including seeking legislation, to ensure the long-term protection of the lands and cultural values associated with the Taos Pueblo World Heritage Site and the Blue Lake Wilderness Area.

**NOW, THEREFORE**, the FAA, the SHPO, the ACHP, Taos Pueblo, and the Town of Taos agree that the undertaking shall be implemented according to the following stipulations in order to avoid, minimize or mitigate the adverse effects of the undertaking.

### STIPULATIONS

If the FAA issues a Record of Decision (ROD) approving the proposed Undertaking, it is stipulated that the following actions will be taken:

I. For purposes of these Stipulations, the following terms have the indicated meanings:

A. The "Taos Pueblo World Heritage Site" means the site nominated in 1987 by the United States for the World Heritage List under the Convention concerning the Protection of the World Cultural and Natural Heritage and inscribed in 1992.

B. The "Blue Lake Wilderness Area" means the area held in trust for Taos Pueblo pursuant to Public Law 91-550, including the Path of Life Area held in trust for Taos Pueblo pursuant to Public Law 104-333; and

C. The "Undertaking" means the FAA's unconditional (final) approval (as embodied in the ROD) of the Airport's amended Airport Layout Plan for the Town of Taos to construct, with potential FAA funding, a new runway that would be 8,600-feet long and 100-feet wide; shortening existing Runway 4/22 by 420 feet, with an associated shift of the Runway Safety Area (RSA), Runway Free Object Zone (ROFA), and Runway Protection Zone (RPZ) a similar distance to the northeast; building a new 3,200-foot long airport access road; and lengthening the existing 2,800-foot long access road from the existing parking lot to the large hangar area all as described in the FEIS on page 1-1.

II. Measures to address aircraft accidents:

A. The FAA and Taos Pueblo shall, within 60 days of the ROD's issuance, establish a process to ensure the FAA provides notice to the Taos Pueblo Police Department immediately upon receiving a report of any aircraft crash in Taos or Colfax Counties.

The Taos Pueblo Police Department shall notify the Taos Pueblo Governor and War Chief.

B. The FAA, the Town of Taos and Taos Pueblo shall, within 60 days of the ROD's issuance, establish a process to ensure that in the event of an aircraft crash in Taos or Colfax Counties, the FAA shall promptly provide Taos Pueblo available pertinent information, such as accident reports and aircraft owner information, except to the extent the information is subject to withholding under the Freedom of Information Act, Privacy Act, or other Federal Law.

C. The Town of Taos and Taos Pueblo, within 120 days of the ROD's issuance, shall complete the development of procedures to coordinate aircraft crash responses in the event of aircraft accidents in Taos County on Taos Pueblo lands. These procedures shall mandate that responses to aircraft accidents by the Town of Taos on Taos Pueblo lands are coordinated with Taos Pueblo and shall ensure that there are no intrusions onto Taos Pueblo lands without prior authorization by Taos Pueblo.

D. The FAA, the Town of Taos and Taos Pueblo also shall coordinate to inform the New Mexico State Police, the United States Department of Defense (DOD), the National Transportation Safety Board, the Bureau of Indian Affairs, the United States Forest Service, and the Bureau of Land Management of the procedures required by Stipulations II.A, B, and C and encourage their cooperation in following those procedures.

E. While having no legal responsibility for the cause or removal of aircraft debris resulting from crashes on Taos Pueblo property that have occurred before the execution of this Agreement, the FAA shall assist Taos Pueblo in attempting to locate and identify the owner(s) of the wrecked aircraft(s) in the following ways:

1. To assist the FAA, Taos Pueblo shall provide the FAA's Albuquerque Flight Standards District Office Manager with the tail numbers of the aircraft involved in past crashes. If a tail number is not available, Taos Pueblo shall provide the engine serial number to the Manager of the FAA's Flight Standards Office. Within 60 days of receiving the information from Taos Pueblo, the FAA shall research its database to identify the owner(s) of the aircraft. If the aircraft is in the database, the FAA shall provide Taos Pueblo with the aircraft owner's name and address or other contact information. The FAA's Albuquerque Flight Standards District Office Manager shall use any reasonable means, including but not limited to, contacting the National Transportation Safety Board, to obtain the responsible parties' contact information.

2. Within 60 days of receipt of the information described above from Taos Pueblo, the FAA shall send letters to any local, State or Federal agencies associated with the Taos Pueblo-provided information (examples: the NPS, the U.S. Forest Service, the Bureau of Indian Affairs, the New Mexico State Police, and the DOD) encouraging them to assist Taos Pueblo to safely remove the structural remains of any aircraft that has crashed on Taos Pueblo lands, including the Blue Lake Wilderness Area.

### III. Overflight Measures:

A. The FAA, within 180 days of the ROD's issuance but no later than one year before the proposed new runway is commissioned and operational, shall implement a voluntary 5,000-foot above ground level (AGL) minimum flight altitude over the Taos Pueblo World Heritage Site as depicted on the attached draft figure from the Denver Sectional Aeronautical Chart. This charting is for air navigation purposes only and does nothing to change the boundaries of any Pueblo lands. This measure would not apply in those rare instances when:

1. Air Traffic Control (ATC), due to weather or emergency conditions, authorizes an aircraft arriving or departing an airport to operate below the minimum flight altitude in Stipulation III.A to ensure safe aircraft operations;
2. Law enforcement or aeromedical flight operations must operate below the minimum flight altitude in Stipulation III.A for operational or safety purposes; or
3. Aircraft operating for purposes of fighting a forest fire or for fire surveillance must operate below the minimum flight altitude in Stipulation III.A.

B. The FAA, within 180 days of the ROD's issuance but no later than one year before the proposed new runway is commissioned and operational, shall implement a voluntary 3,000-foot AGL minimum flight altitude over the Blue Lake Wilderness Area, the Taos Pueblo Grant outside the World Heritage Site boundaries, and adjoining Pueblo lands as depicted on the attached draft figure from the Denver Sectional Aeronautical Chart. This charting is for air navigation purposes only and does nothing to change the boundaries of any Pueblo lands. This measure would not apply in those rare instances when:

1. Air Traffic Control (ATC), due to weather or emergency conditions, authorizes an aircraft arriving or departing an airport to operate below the minimum flight altitude in Stipulation III.B to ensure safe aircraft operations;



2. Law enforcement or aeromedical flight operations that are in contact with ATC must operate below the minimum flight altitude in Stipulation III.B for operational or safety purposes; or

3. Aircraft operating for purposes of fighting a forest fire or for fire surveillance or on special scheduled flights for natural resources management and protection must operate below the minimum flight altitude in Stipulation III.B.

C. The minimum flight altitudes specified in Stipulations III.A and III.B shall have no precedential effect in any rulemaking proceeding concerning overflights of the Taos Pueblo World Heritage Site, the Blue Lake Wilderness Area, or other Taos Pueblo lands.

D. The FAA, within 60 days of the ROD's issuance, shall offer Taos Pueblo the training opportunities described below for Taos Pueblo members at no cost to Taos Pueblo. If Taos Pueblo chooses to use these training opportunities, Taos Pueblo shall provide space for the training. The FAA and Taos Pueblo shall negotiate mutually agreeable training dates.

1. The FAA Albuquerque Flight Standards District Office shall offer to conduct a workshop for 20 participants. The workshop will train those participants how to identify and report aircraft failing to adhere to the voluntary altitude minimums over the areas specified in Stipulations III.A and B. Taos Pueblo may choose to identify and report aircraft as a supplement to the passive monitoring system described in Stipulation IV.A of this Agreement. Taos Pueblo shall determine the people who will receive the training. The FAA training shall be designed to enhance individuals' abilities to efficiently read the aircraft tail numbers and identify the types of aircraft that fail to adhere to the voluntary altitude minimums over the areas specified in Stipulations III.A and B. Taos Pueblo shall ensure that its members who receive this training will instruct other Taos Pueblo members in future years. If requested by Taos Pueblo, the FAA will also work with Taos Pueblo in future years to train additional Taos Pueblo members, subject to FAA budgetary and staffing considerations.

2. The FAA shall offer to provide a one-time workshop on airport planning and operations. This training, for a maximum of 20 Taos Pueblo members, will be based on existing FAA curricula offered to its employees, but will be tailored to Taos Pueblo needs.

E. The FAA, the Town of Taos and Taos Pueblo shall work together as follows to design and implement, within 180 days of the ROD's issuance but no later than one year before

the proposed new runway is commissioned and operational, a program to alert and educate pilots about the cultural values of the Taos Pueblo World Heritage Site and the Blue Lake Wilderness Area:

1. The FAA's National Aeronautical Charting Office shall update and maintain the Denver Sectional Aeronautical Chart.

a. The chart shall clearly outline the area including the Taos Pueblo World Heritage Site, the Blue Lake Wilderness Area, the Taos Pueblo Grant western and southern boundaries; except for navigation purposes for the purpose of this Agreement only, the southwest boundary of the Pueblo Land Grant shall be charted to exclude the Town of Taos and Highway 64 as depicted on the attached draft figure from the Denver Sectional Aeronautical Chart.

b. The current charted national welfare language shall be replaced with the following as depicted on the attached draft figure from the Denver Sectional Aeronautical Chart:

1. For the World Heritage Site, "DUE TO NATIONAL WELFARE, PILOTS ARE REQUESTED TO AVOID FLIGHTS BELOW 5000' AGL OVER THE TAOS PUEBLO WORLD HERITAGE SITE. NOTE: THE MINIMUM ALT OVER THE WORLD HERITAGE SITE IS 12,300' MSL."

2. For the Blue Lake Wilderness Area, "DUE TO NATIONAL WELFARE PILOTS ARE REQUESTED TO AVOID FLIGHTS BELOW 3000' AGL OVER THE TAOS PUEBLO BLUE LAKE WILDERNESS AREA AND OUTLINED PUEBLO LANDS."

2. The Town of Taos shall work with Taos Pueblo to begin and maintain a Public Education Program urging pilots to avoid flying over the Taos Pueblo World Heritage Site and the Blue Lake Wilderness Area, provided the safety of the aircraft is not compromised given flight conditions. To do so, the Town of Taos shall:

a. Place and maintain announcements on the Universal Communications system (UNICOM) urging pilots to avoid flying over the Taos Pueblo World Heritage Site and the Blue Lake Wilderness Area.

b. Place and maintain noise abatement signs at the ramp security gates and at the ends of the taxiways at Taos Regional Airport. The signs shall advise pilots of the culturally sensitive natures of the Taos Pueblo World Heritage Site and the Blue Lake Wilderness Area. Signs will urge pilots to avoid flying over those locations, consistent with the exceptions in Stipulations III.A and III.B.

c. Distribute a one-page information sheet urging pilots to avoid flying over the Taos Pueblo World Heritage Site and the Blue Lake Wilderness Area to be developed by Taos Pueblo in consultation with the Town of Taos and the FAA. The sheet shall explain the sensitive natures of the Taos Pueblo World Heritage Site and the Blue Lake Wilderness Area, and include a map of the locations pilots should avoid overflying. The Town of Taos shall distribute this information sheet to airports in Texas with the greatest amount of traffic bound for Taos Regional Airport and to all airports located in northern New Mexico and southern Colorado that are identified in the National Plan of Integrated Airport Systems, including but not limited to the Albuquerque metropolitan area and the Colorado Springs metropolitan area. Electronic distribution of this information sheet shall be repeated at least annually.

d. Include on the Taos Regional Airport website the text of the announcement in Stipulation III.E.2.a and the information sheet in III.E.2.c.

3. The FAA shall coordinate with the Aircraft Owners and Pilots Association (AOPA), the Experimental Aircraft Association (EAA), the New Mexico Pilots Association (NMPA), and the Soaring Society of America (SSA) to make their members aware of the cultural sensitivity of the Taos Pueblo World Heritage Site and the Blue Lake Wilderness Area. The Town shall annually provide electronically the information sheet in Stipulation III.E.2.c to these groups for distribution to their members.

4. The FAA, the Town of Taos, and Taos Pueblo shall cooperate to develop an exhibit in the Airport terminal. This exhibit shall be designed by Taos Pueblo to make pilots more aware of Taos Pueblo's culture and needs for privacy and protection from aircraft noise and visual intrusion.

a. The Town of Taos shall make available in the Airport terminal a wall surface, up to 9 square feet in area, in a prominent location for the exhibit.

Provided the Town of Taos submits to the FAA a properly completed project grant application with supporting documentation, sponsor assurances, and certifications, the FAA shall provide funding of up to \$5,000 for reasonable costs of developing and initially printing the poster or other type of wall exhibit, subject to the conditions in Stipulation XII. The Town of Taos and the NMDTAD shall provide the local matching share for this grant of Federal funding.

b. Taos Pueblo will develop the poster or other type of wall exhibit to convey the cultural sensitivity and need for privacy of the Taos Pueblo World Heritage Site and the Blue Lake Wilderness Area. The poster or other type of wall exhibit must fit within the 9-square foot area described in Stipulation III.E.4.a.

c. The Town of Taos shall include a reproduction of the poster or wall exhibit on the Taos Regional Airport website.

d. Before installing Taos Pueblo's poster or other type of wall exhibit, the Town of Taos and the FAA will review all developed informational materials to assure the exhibits are not contrary to Federal, State, or local laws, including, but not limited to, aviation safety or airport minimum standards.

#### IV. Passive Monitoring System Measure:

A. Within 90 days of issuance of the ROD, the Town of Taos shall advertise for a mandatory pre-bid meeting and a site survey tour with prospective contractors for the design, installation, and monitoring of a passive monitoring system. The Town of Taos and Taos Pueblo shall attend the pre-bid meeting and explain the cultural sensitivities of Taos Pueblo to the prospective contractors, so they may factor those sensitivities in their proposals. Within 30 days of the pre-bid meeting, the Town of Taos shall advertise a Request for Proposals for qualified contractors who attended the pre-bid meeting to submit proposals for the design, installation and operation of the system. Once a contractor has been selected and bids accepted, the Town of Taos, in consultation with Taos Pueblo, shall submit to the FAA a properly completed project grant application for that system, including supporting documentation, sponsor assurances and certifications. Upon receipt of this grant application, the FAA shall provide funds for the passive monitoring system for a three-year period as discussed in Stipulation IV.B, subject to the conditions in Stipulation XII. The Town of Taos and the NMDTAD shall provide the

local matching share for this grant of Federal funding. Once a contractor has been selected and a grant issued by the FAA, the Town of Taos and Taos Pueblo will meet with the selected contractor to review proposed locations for the monitoring system's receivers and determine acceptability of those locations to Taos Pueblo regarding tribal cultural sensitivities. The FAA, the Town of Taos, SHPO, and Taos Pueblo shall, in good faith, reach agreement on the optimal location for the passive monitoring ground stations within 30 days of meeting with the selected contractor. If agreement cannot be reached, the dispute resolution process described in Stipulation X shall be followed. The written objection required under Stipulation X.A shall be submitted to the FAA within 45 days of the meeting with the selected contractor. Notwithstanding the outcome of the dispute resolution process set forth in Stipulation X, the Town shall not direct the selected contractor to proceed with installation and operation of the passive monitoring system until agreement is reached. Once installation of the passive monitoring system is complete, the selected contractor shall operate the passive monitoring system for a three-year period as discussed in Stipulation IV.B.

B. For purposes of monitoring existing Airport-related operations over the Taos Pueblo World Heritage Site or the Blue Lake Wilderness Area, the passive monitoring system should be operational for one year before the runway is commissioned and operational. For purposes of monitoring future Airport-related operations over the sites noted above, the system shall operate for two years after the Undertaking's proposed runway becomes commissioned and operational.

C. The passive monitoring system shall be based on standard aircraft transponders and ground stations (a ground array of receivers) to provide data and comparative information concerning the pre-project and post-project frequency and altitude of flights over the Taos Pueblo World Heritage Site, the Blue Lake Wilderness Area, the Taos Pueblo Grant and adjoining Pueblo lands as described in this Agreement and outlined on the attached draft Denver Sectional Aeronautical Chart.

D. The FAA and the Town of Taos shall ensure, through contractual provisions with the system vendor, that monitoring data will be available in real time to all signatories and concurring parties through access to a web site. The FAA shall provide all parties to this Agreement with information on how to access the web site on or before the first day the passive monitoring system is operational. The FAA shall ensure that monitoring data will be available during the monitoring periods discussed in Stipulation IV.B above, except for times and circumstances that are beyond the control of the FAA (examples: equipment damage due to weather, power outages, or equipment maintenance or repair).

E. If the passive monitoring system is funded and installed, the FAA shall provide all signatories and concurring parties with summarized information from the monitoring system at the end of the pre-project year, and at the end of the two year post-project period.

F. If the passive monitoring system's data for the two year post-project period indicate an ongoing issue of uncontrolled overflights below the altitudes described in Stipulations III.A and III.B, the Town of Taos shall consider, in consultation with Taos Pueblo, extending the operation, maintenance, and collection of data from the passive monitoring system beyond the initial three-year period.

G. Within 90 days of the FAA's issuance of the ROD, the Town of Taos, in consultation with Taos Pueblo, shall submit to the FAA a properly completed project grant application with supporting documentation, sponsor assurances, and certifications for reasonable costs of conducting aircraft identification and report activities as a supplement to the passive monitoring system. The FAA agrees to provide funding of up to \$45,500 for these purposes subject to Stipulation XII. The Town of Taos shall contract with Taos Pueblo to conduct these activities. The Town of Taos and NMDTAD shall each provide local matching shares of 2.5% of the total funding cost. This Federal grant shall be used to assist in funding Taos Pueblo's costs for identification and reporting activities for one full year before the proposed runway is commissioned and operational and two full years after the runway is commissioned and operational.

#### V. Reporting of Radar Data over the Rio Grande Gorge:

A. During the three years in which the passive monitoring system described in Stipulation IV is in operation, the FAA shall provide a report within the first two weeks of each calendar quarter to the other parties of radar data on aircraft flights over the Rio Grande Gorge.

1. The report shall include one week of data for each month during the three years in which the passive monitoring system is in operation.
2. For each month that the passive monitoring system is in operation, Taos Pueblo shall designate the week during which the tracking of radar reports is to be conducted. Taos Pueblo will designate the weeks no later than the last day of the quarter.

B. The report shall include aircraft flights below Flight Level 180 wherever radar coverage is available within an area whose boundaries are as follows:

1. The eastern boundary is a north-south line  $\frac{1}{2}$  mile east of the eastern edge of the Rio Grande Gorge;

2. The western boundary is a north-south line ½ mile west of the western edge of the Rio Grande Gorge;
  3. The southern boundary is an east-west line that intersects the confluence of the Rio Grande and the Rio Pueblo; and
  4. The northern boundary is an east-west line two miles north of the Rio Grande Gorge bridge.
- C. The report shall include as much of the following information as radar provides about flights within the area designated in Stipulation V.B above:
1. The date and time of day of each flight;
  2. The time of entry to and exit from the area defined in Stipulation V.B.;
  3. The flight path of each flight;
  4. The MSL altitude of each flight throughout its flight path over the area defined in Stipulation V.B; and
  5. The type of aircraft involved in each flight if available.

VI. Potential future mitigation measures by FAA:

A. If the results of the passive monitoring system described in Stipulation IV indicate an increase in uncontrolled aircraft flights over the area monitored, then the FAA, in consultation with Taos Pueblo, the Town of Taos and other consulting parties, as appropriate, shall conduct appropriate safety, operational, environmental, and cultural preservation reviews to determine whether the following additional steps should be implemented to discourage the increase in uncontrolled overflights:

1. Use Runways 22 or 30 as departure runways, traffic and conditions permitting;
2. Use Runways 04 or 12 as arrival runways, traffic and conditions permitting;
3. Develop and adopt flight procedures that will guide pilots flying to Taos Regional Airport to approach the Airport from the west;
4. Develop and adopt flight procedures that will guide pilots departing Taos Regional Airport to conduct their initial climbs to the west of the airport traffic area; or
5. Adjust approach and departure flight patterns for Runways 04/22 to the northwest of those runways and Runways 12/30 to the southwest of those runways.

B. If the outcome of the reviews described in Stipulation VI.A is that one or more of the above additional steps would discourage overflights and would meet applicable safety, operational, environmental, and cultural preservation considerations, then the FAA, in consultation with Taos Pueblo, the Town of Taos and other consulting parties as appropriate, shall implement that step or those steps.

VII. Airport Advisory Board Measure:

A. The Town of Taos, within 30 days of the ROD's issuance, shall take the necessary actions by ordinance and amend the bylaws for the Town's Airport Advisory Board (the Board). The ordinance and amendment shall create a permanent voting-member position on the Board for a representative of Taos Pueblo whose participation shall be consistent with the Town of Taos' Municipal Ordinance Chapter 2.12 and the Board's bylaws.

B. Within 60 days after ordinance enactment and bylaws amendment, Taos Pueblo will:

1. Appoint the person who will represent the interests of Taos Pueblo on the Board (Pueblo Board Member); and
2. Inform the Town of Taos of the appointment and provide the appointee's contact information.

VIII. Legislative Action:

A. Taos Pueblo, the Town of Taos, the ACHP, and the SHPO agree that they shall work together to develop legislation that would protect the living culture values of the World Heritage Site, the Blue Lake Wilderness Area, the Taos Pueblo Grant, and the adjoining Taos Pueblo lands as outlined in the draft Denver Sectional Aeronautical Chart, excluding the U.S. Route 64 corridor, from the noise and visual effects of aircraft through enforceable flight restrictions and prohibitions. Within 90 days of execution of this Agreement, the Town of Taos and Taos Pueblo agree that they shall jointly submit draft proposed legislation to the New Mexico Congressional delegation with a request for expeditious introduction and enactment and shall renew their request annually thereafter until enactment. The voluntary minimum flight altitudes specified in Stipulations III.A and III.B and the passive monitoring system results described in this Agreement will have no precedential effect in the formulation or consideration of any such legislation.

B. The FAA and the NPS will provide technical advice upon request by Congress.

C. If such legislation is enacted, then the FAA, in consultation with all parties to this Agreement, will determine whether any of the provisions of this Agreement have been superseded or modified as a matter of law, and whether the Agreement should be amended pursuant to Stipulation XI.B.

IX. Review and Evaluation:



A. After the proposed runway has been in operation for one year and for each of the next two years thereafter, the FAA, Taos Pueblo and the Town shall participate in a meeting at Taos Pueblo to review and evaluate the effectiveness of the Stipulations. Other consulting parties will be invited.

B. On or before the last day of the month preceding the meeting, the FAA, Taos Pueblo, and the Town of Taos shall each prepare and distribute to all parties of this Agreement a report. The NPS will support the Taos Pueblo as needed in addressing issues and preparing its report. Each report shall:

1. Describe activities undertaken pursuant to the Agreement during the past year;
2. Evaluate whether the Stipulations have been effective in addressing the Undertaking's effects under Section 106 of the NHPA on the World Heritage Site and properties listed on or eligible for listing on the National Register; and
3. Make recommendations, if any, for changes in the Stipulations and for additional measures that should be implemented to address the Undertaking's effects under Section 106 of the NHPA on the World Heritage Site and properties listed or eligible for listing on the National Register.

C. The signatories and concurring parties participating in the meeting shall determine the meeting date and agenda. The agenda for the meeting shall include an opportunity for presentations from the FAA, Taos Pueblo, the Town of Taos, the ACHP, the NPS, the SHPO, and the NMDTAD.

X. Dispute Resolution:

A. Should any signatory to this Agreement object in writing to the FAA regarding any action carried out or proposed with respect to the Undertaking or implementation of this Agreement, the FAA shall consult with the objecting signatory to resolve the objection.

B. If, after initiating such consultation, the FAA determines that the objection cannot be resolved through consultation, the FAA shall forward all documentation relevant to the objection to the ACHP, including the FAA's proposed response to the objection.

C. Thirty (30) days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options:

1. Advise the FAA that the ACHP concurs in the FAA's proposed response to the objection, whereupon the FAA shall respond to the objection accordingly;

2. Provide the FAA with recommendations, which the FAA shall take into account in reaching a final decision regarding its response to the objection; or
3. Notify the FAA that the objection shall be referred for comment pursuant to 36 CFR 800.7(a)(4), and proceed to refer the objection and comment. The FAA shall take the resulting comment into account and respond to it in accordance with 36 CFR 800.7(c)(4).

#### XI. Duration, Amendment, and Termination:

- A. This Agreement will terminate five years after the runway is commissioned and operational, unless extended by a written amendment to this Agreement that all signatories sign.
- B. Any signatory to the Agreement may request that it be amended, whereupon the signatories shall consult to reach a consensus on the proposed amendment. No amendment shall be effective unless it is in writing and signed by all signatories to this Agreement.
- C. If any signatory to the Agreement determines that its terms cannot be carried out, that signatory shall immediately consult with the other signatories to develop an amendment per Stipulation XI.B. If within ninety (90) days an amendment cannot be reached, any signatory may terminate the Agreement upon written notification to the other signatories.
- D. If any signatory terminates the Agreement, the FAA shall comply with 36 CFR Part 800 for all remaining portions of the Undertaking.
- E. The termination of this Agreement shall have no effect on any of the measures provided in Stipulations I; II.A, B, C, and D; III.A, B, C, and E; VII; VIII; XII; XIII; XIV and XV. Those measures shall remain in effect after the term of this Agreement runs or if this Agreement is terminated.

#### XII. Anti-Deficiency Act:

The FAA's obligations under this Agreement are subject to the availability of appropriated funds, and the Stipulations of this Agreement are subject to the provisions of the Anti-Deficiency Act. The FAA will make reasonable and good faith efforts to secure the necessary funds to implement this Agreement in its entirety. If compliance with the Anti-Deficiency Act alters or impairs the FAA's ability to implement the stipulations of this Agreement, the FAA will consult in accordance with the amendment and termination procedures set forth in Stipulation XI.

### XIII. Town of Taos' Appropriations and Authorization:

The obligations of the Town of Taos under this Agreement are contingent upon there being sufficient appropriations and availability of funds and sufficient legal authorization for their performance. The Town of Taos will make reasonable and good faith efforts to secure the necessary funds to implement the portions of this Agreement for which it is responsible. If lack of appropriations or sufficient legal authorization alters or impairs the Town of Taos' ability to implement the Stipulations of this Agreement, the Town of Taos will consult in accordance with the amendment and termination procedures set forth in Stipulation XI.

### XIV. Availability of Taos Pueblo Resources:

The obligations of Taos Pueblo under this Agreement are contingent upon there being sufficient appropriations and available funds, and upon legal authorization for both the performance of those obligations and the use of funds for those obligations. Taos Pueblo will make reasonable and good faith efforts to secure the funds necessary to implement the provisions of this Agreement for which Taos Pueblo is responsible. If insufficient funds or the absence of legal authorization alters or impairs Taos Pueblo's ability to perform its obligations under this Agreement, Taos Pueblo shall consult with the other signatories to this Agreement pursuant to the amendment and termination procedures set forth in Stipulation XI.

### XV. Limitation:

This Agreement does not address any previous, current or future authorizations for Department of Defense or national security flight operations. Those authorizations are not part of this Undertaking as defined in Stipulation I.C.

### XVI. World Heritage Site Modifications:

Should a revision or modification of the World Heritage Site occur during the term of this Agreement, the signatories and concurring parties will consult to determine whether amendments to this Agreement pursuant to Stipulation XI.B are needed.

### XVII. Execution:

Execution of this Agreement by the FAA, the ACHP, Taos Pueblo, the SHPO, the Town of Taos, NPS, and the NMDTAD and implementation of its terms, constitutes evidence that the FAA has afforded the ACHP, Taos Pueblo, the SHPO, the Town of Taos, the NPS, and the NMDTAD an opportunity to comment on the proposed Airport Layout Plan Improvements for the Taos Regional Airport and the effects of these improvements on historic properties. Further,

execution of the Agreement shows that the FAA has taken into account the effects of the proposed Undertaking on historic properties, including Taos Pueblo, a World Heritage Site and a National Historic Landmark, and the area treated as a National Register-eligible historic district which includes the Blue Lake Wilderness Area.

SIGNATORIES

**Federal Aviation Administration**

By: Teresa Bruner Date: 1/23/12  
Teresa Bruner, Regional Administrator

**Advisory Council on Historic Preservation**

By: John M. Fowler Date: 1/27/12  
John M. Fowler, Executive Director

**New Mexico Department of Cultural Affairs**

By: Jan Biella Date: 1/10/2012  
Jan Biella, Acting State Historic  
Preservation Officer

**Taos Pueblo**

By: Nelson J. Cordova Date: 12/28/2011  
Nelson J. Cordova, Governor

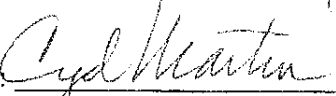
By: Edwin Concha Date: 12/28/11  
Edwin Concha, War Chief

**Town of Taos**

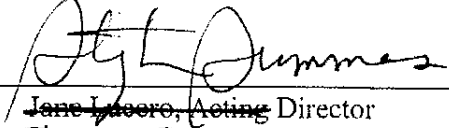
By: Darren M. Cordova Date: 12/29/11  
Darren M. Cordova, Mayor

**Concurring:**

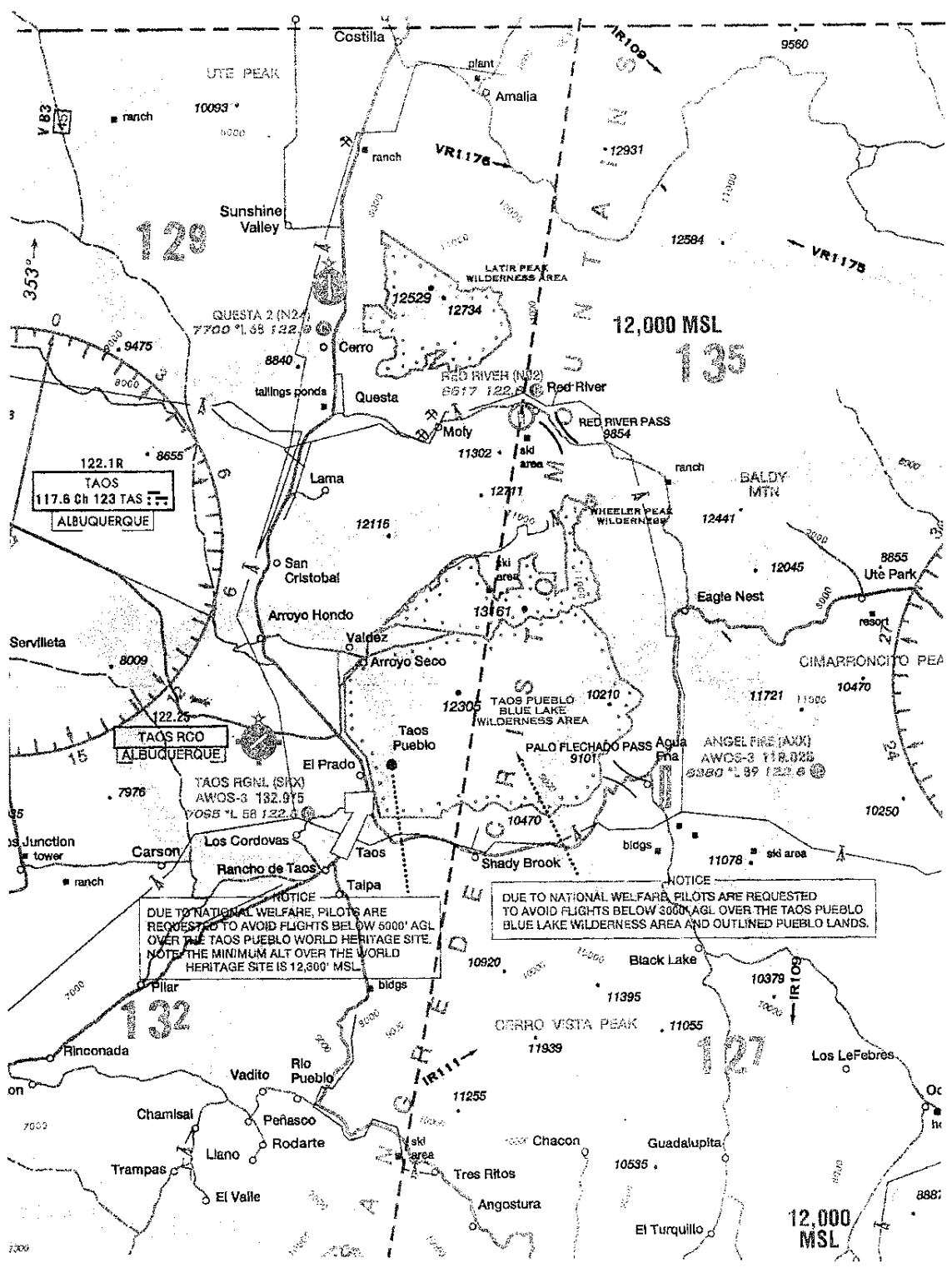
**National Park Service, Intermountain Region**

By:  Date: 2/24/2012  
Cyd Martin, Director for Indian Affairs  
and American Culture

**New Mexico Department of Transportation, Aviation Division**

By:  Date: 2/29/12  
~~Jane Lacroix, Acting Director~~  
Stephen Summers

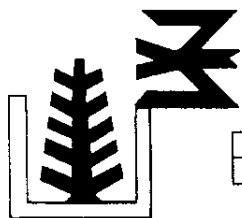




NOTICE  
 DUE TO NATIONAL WELFARE, PILOTS ARE REQUESTED TO AVOID FLIGHTS BELOW 5000' AGL OVER THE TAOS PUEBLO WORLD HERITAGE SITE. NOTE THE MINIMUM ALT OVER THE WORLD HERITAGE SITE IS 12,800' MSL.

NOTICE  
 DUE TO NATIONAL WELFARE, PILOTS ARE REQUESTED TO AVOID FLIGHTS BELOW 3000' AGL OVER THE TAOS PUEBLO BLUE LAKE WILDERNESS AREA AND OUTLINED PUEBLO LANDS.





NEW MEXICO  
ENVIRONMENTAL LAW CENTER

94054

March 5, 2012

The Honorable Laureano Romero  
Governor  
The Honorable Benito Sandoval  
War Chief  
The Honorable Gil Suazo, Sr.  
Lieutenant Governor  
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New Mexico Department of Cultural Affairs  
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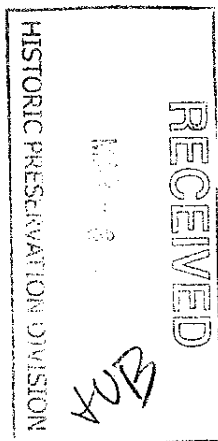
The Honorable Darren Cordova  
Mayor  
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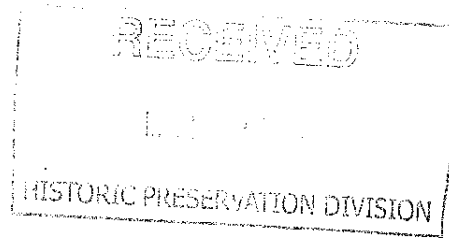
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Taos Airport MOA Parties  
March 5, 2012  
Page 2



Re: Taos Airport Memorandum of Agreement

Dear Parties:

I have enclosed an original and a copy of the executed Memorandum of Agreement for Taos Pueblo, for the Town of Taos, and for the Federal Aviation Administration. I have enclosed for each of the other parties two copies of the executed Memorandum of Agreement.

Please do not hesitate to contact me if you have any questions about this. Thank you all for your cooperation in the development and execution of the Memorandum of Agreement.

Yours truly,

  
Douglas Meiklejohn  
Attorney