

Memorandum of Understanding (MOU)

among

Vermont Agency of Transportation

and

Vermont Agency of Natural Resources

for

Franklin County State Airport (FSO) Grassland Bird Impact, Mitigation, Protection for Runway Expansion, Widening, Hangar Projects, Grassland Restoration and Management Plan, and Long-Term Grassland Habitat Mitigation Strategy

Parties.

This Memorandum of Understanding (MOU) between the State of Vermont, Agency of Transportation with a principal place of business at Barre, Vermont (hereafter called “AOT”), and the State of Vermont, Agency of Natural Resources with a principal place of business at Montpelier, Vermont (hereafter called “ANR”).

Subject Matter.

This MOU is intended to bring together the various elements of a proposed mitigation plan for loss and disturbance of grassland bird nesting habitat at FSO in Highgate, Vermont, including direct references to the Grassland Restoration and Management Plan and Long-Term grassland Habitat Mitigation Strategy required by the Takings Permit. ANR will coordinate providing this document to the Bird Scientific Advisory Group and the Endangered Species Committee.

FSO is a public airport comprised of approximately 350 acres located in the town of Highgate, in Franklin County Vermont. It has been owned by the State of Vermont since 1969 and is operated by AOT. The single asphalt paved runway originally constructed in 1969 measures 3,000 ft in length and recently was expanded to 75 feet in width from the original 60 feet in width. A 1,001’ runway extension project is under contract for construction in 2024. Hangar development has been identified on the airport with partial finding completed for development. Other than these projects, there has been minimal construction at the airport since 1995, aside from the construction of two additional hangars in the northeastern portion of the airport in 2008.

Breeding populations of both the state threatened Grasshopper Sparrow (*Ammodramus savannarum*) and the state threatened Eastern Meadowlark (*Sturnella magna*) have been identified at FSO over the past 30 years through breeding season surveys conducted by Audubon Vermont volunteers and scientists with the Agency of Natural Resources’ Fish and Wildlife Department (DFW). FSO is also used by the Eastern Whip-poor-will (state

threatened) for breeding.

For the past three decades (and beyond), the vegetation management of the airport has been focused on maintaining the air operations area (AOA) with short grasses and forbs in such condition to facilitate safe aircraft operations. This has included the removal of woody plant species and the prevention of their recolonization.

Data indicates that this breeding population of the Grasshopper Sparrow represents the largest and potentially only sustainable remnant breeding population in the state. Given the consistency of the vegetation management at FSO over that same time period, this also indicates that the airport operations and maintenance and the management practices at FSO during the last 24 years have been compatible with the species' habitat needs. The very nature of the airport operations vegetation management has supported a breeding population and the most consistent and longest-running occupied Grasshopper Sparrow habitat in Vermont.

Habitat Loss Due to Runway Construction Requiring Mitigation.

The number of acres of suitable grassland nesting habitat required for mitigation of airport expansion impacts is based on applying a ratio of 2 to 1 (that is, for every acre of habitat impacted, 2 acres must be restored or protected, per DFW Grassland Bird Mitigation Guidelines):

At FSO 37.46 acres are impacted by the runway projects listed. This does not include area in the northeast section of the airport property that was not disturbed during 2023 construction; that area will not be further disturbed as part of the runway extension project. Because this area is slated to be developed in the future, it will be mitigated in advance through payment of a mitigation settlement as described below.

$$37.46 \times 2 = 74.92 \text{ acres needed for mitigation}$$

Mitigation (see Map 1 below)

- Mitigation areas: A,B,C,D,E,F = 72.52 acres (excludes 0.6 acres in AOT map where a Grasshopper sparrow was on territory in 2023) to be permanently protected (as long as these T&E species' are verified to be present at FSO after the habitat restoration activities in the Necessary Practices for Effective Restoration below are complete) and maintained as suitable habitat for Grasshopper Sparrow. Note that there is a 2.4 acre difference in the mitigation required in accordance with DFW mitigation guidelines but, the 72.52 is acceptable given the amount of open land offered as habitat mitigation and the commitment to implement habitat restoration.

- Areas A,B,C,D,E to be restored to and maintained as suitable habitat. Specifically, consistent with the Restoration and Management Plan, portions of this area will require (mechanical) tilling and planting of appropriate grasses and forbs to establish suitable Grasshopper Sparrow habitat.
- Area F: contains areas that are existing, suitable Grasshopper Sparrow habitat and will be maintained, as well as areas that will be seeded with appropriate grasses and forbs in order to support a vegetation structure consistent with quality grassland bird habitat, beginning immediately after completion of the runway extension project within the limit-of-disturbance as shown on [map]; treatment, if needed, of the undisturbed remainder of Area F will take place only after disturbed areas have revegetated.
- Mitigation settlement fee: \$40,000: This fee is based on the need to account for the loss of additional Grasshopper Sparrow nesting habitat associated with a future taxiway on the northeastern portion of the airport. It is calculated based on the number of acres lost to that project and the per acre value of replacing that habitat elsewhere. Geographic Area Rate Calculations (GARC) established by the U.S. Department of Agriculture, Natural Resources Conservation Service were used to establish this fee. The DFW will hold the fee in the fish and wildlife conservation fund until it has established a suitable project to benefit Grasshopper Sparrows and other grassland nesting birds. The fee shall be paid by AOT to the DFW prior to construction of the projects referenced under this agreement. DFW will coordinate with the Endangered Species Committee (ESC) and the Bird Species Advisory Group on the use of these funds for the conservation of Grasshopper Sparrow habitat. When a suitable project to benefit Grasshopper Sparrows and other grassland nesting birds is identified DFW will provide AOT with a full accounting of how and where this settlement fee was expended.
- Area E comprises 31.1 acres. This acreage is owned by AOT. It is independent of FSO, it is not part of the airport property. AOT introduced Area E (approximately valued at \$647,000) to accomplish necessary mitigation acreage bringing AOT's overall mitigation acreage investment to \$687,000.

Necessary Practices for Effective Mitigation

- Fencing will be added to the north end of the active area of the airport to enclose the Air Operations Area completely. This fence will be consistent with fencing used on the rest of the airport property. AOT will also fence the outer perimeter of Area C with a gate that provides access for vegetative management and airport operations, no later than June 30, 2027; it is not necessary to remove any existing fence in this area unless required for airport operations. Project costs to fence the northern

perimeter will be budgeted no-later-than the Governor's As Recommended SFY '27 Budget. Fencing installation will be contingent upon the Legislature approving the As Recommended Budget.

- All areas depicted on the map titled "Grassland Impact and Permanently Protected Habitat" and dated 29 Jan 2024, including restored areas and mitigation areas, will be managed by AOT on an ongoing basis to provide suitable breeding habitat for Grasshopper Sparrows. Management practices will be detailed in a Restoration and Management Plan approved by ANR.
 - Implementation of the Restoration and Management Plan shall commence in April of 2024, and habitat restoration shall end in November 2029, provided that habitat restoration is completed in accordance with the approved Plan and ANR directives during this time period. From 2024 to 2029, habitat restoration will entail: annual monitoring of the habitat, consultation with an agronomist; and as necessary, chemical treatment, mechanical tilling and reseeding to restore, develop and maintain Grasshopper Sparrow habitat. Given the inherent uncertainty associated with the unique restoration challenges and conditions associated with this project, ANR may also seek to amend the Restoration and Management Plan during this time period, depending on the advice of the agronomist and other experts, the presence of Grasshopper Sparrows, the monitored response of the vegetation to management practices, and the conditions of the habitat.
 - From 2024 to 2029, by February 15 of the following year, AOT, through their environmental section, will provide an annual report to ANR regarding the status of the protected habitat. This report shall satisfy the specific Conditions G and H in the Takings Permit under Reporting Requirements.
 - If necessary, invasive species control will be conducted beginning in 2024 for three years, except that ANR may waive this requirement if invasives are not present in the habitat restoration areas following year 2.
 - Implementation of the Restoration and Management Plan will include a long-term commitment to mow or brush hog the grasslands, outside the grassland bird nesting season (i.e., after August 15). Limited mowing may be performed consistent with past airport operations and practices with only as needed mowing along fencing, along the edge of the runway, at runway/taxiway intersections for sight lines within Air Operations Area, and around the Airport Weather Observation Station (AWOS). Mowing shall be conducted in a manner that maintains habitat and avoids taking Grasshopper Sparrows. Once the habitat restoration has occurred in Areas E

and F, (other than as mentioned above) mowing will not occur in Areas E and F between June 1 and August 15 each year.

- In coordination with AOT and air operations, ANR may survey the protected areas for the presence and status of Grasshopper Sparrow, Eastern Meadowlark, and other grassland birds, and may inspect the condition of the habitat to ensure implementation of the Restoration and Management Plan.

MOU Term.


This agreement shall remain in effect as long as it supports the stated purpose; periodically the agreement may be reviewed and revised, if necessary, to ensure support of the stated purpose. Compliance with this agreement constitutes compliance with the Grassland Restoration and Management Plan and the Long-Term Grassland Mitigation Strategy required by Threatened and Endangered Species Takings Permit EH-2023-03.

Amendment.

No changes, modifications, revisions or amendments in the terms and conditions of this MOU shall be effective unless reduced to writing, numbered, and signed by the Secretaries of AOT and ANR.

By AOT:

Date: April 18, 2024

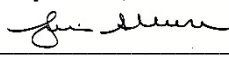
Signature:  _____

Name: Joe Flynn _____

Title: Secretary

BY ANR:

Date: April 18, 2024

Signature:  _____

Name: Julie Moore _____

Title: Secretary