

—TOWN OF—  
**MIDDLETON**  
*Wisconsin*

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December 8, 2020

Sent Via Email

[craigm.thompson@dot.wi.gov](mailto:craigm.thompson@dot.wi.gov)

Craig Thompson, Wisconsin Dept. of Transportation secretary-designee  
Hill Farms State Office Building  
4822 Madison Yards Way  
Madison, WI 53703

Re: Middleton Municipal Airport – Morey Field (C29); 2002 C29 Airport Layout Plan

Dear Secretary-Designee Thompson:

It is a violation of both federal and Wisconsin state law to not keep up to date at all times an approved Airport Layout Plan (“ALP”). As documented by the City of Middleton’s airport consultant, Mead & Hunt, Middleton Municipal Airport – Morey Field (a/k/a “C29”) has not had an approved ALP since 2002. Since then, many material changes have occurred at C29 that are not contained on an FAA approved, up to date ALP.

[Mead & Hunt, Ch. 3 – Facilities Requirements (Draft – October 22, 2020), pages 3-4, available at <https://www.cityofmiddleton.us/455/Airport-Master-Plan>]

FAA Standard Operating Procedure (“SOP”), Standard Procedure for FAA Review and Approval of Airport Layout Plans (ALPs), ARP SOP 2.00, Effective Date: October 1, 2013, states:

...

#### **5. ALP REQUIREMENTS AND OBJECTIVES**

An ALP is required by statute to be up-to-date. This derives directly from Title 49 U.S.C. 47107(a)(16). Grant Assurance No. 29 obligates an airport sponsor to ‘keep up to date at all times a layout plan of the airport,’ and also to receive FAA approval of any ALP update, revision, or modification. Further, any proposed AIP or PFC funded projects must be on an approved ALP. The AIP Handbook (FAA Order 5100.38C, Paragraph 300.c.) states, ‘A current airport layout plan (ALP) that depicts the proposed project and which has FAA approval from the standpoint of safety, utility, and efficiency of the airport shall be required before a development project is approved.’

[<https://www.faa.gov/airports/resources/sops/media/arp-SOP-200-ALP-Review.pdf>]

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Not only is an FAA approved, up to date ALP required by federal and state law, it is also required by FAA Grant Assurance No. 29 that states as follows:

**FAA Grant Assurance No. 29. Airport Layout Plan.**

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:
  - 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
  - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
  - 3) the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
  - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

[[https://www.faa.gov/airports/aip/grant\\_assurances/media/airport-sponsor-assurances-aip-2020.pdf](https://www.faa.gov/airports/aip/grant_assurances/media/airport-sponsor-assurances-aip-2020.pdf).]

Wisconsin Transportation Administrative Code, Ch. Trans 55, Conditions of State Aid for Airport Improvement; Trans. 55.06, Conditions of state aide, (8) Airport Layout Plan, also states:

An airport shall maintain a current layout plan...

[[https://docs.legis.wisconsin.gov/code/admin\\_code/trans/55/06](https://docs.legis.wisconsin.gov/code/admin_code/trans/55/06)]

In light of this material breach by the City of Middleton, Middleton Municipal Airport – Morey Field of federal and state law, and Federal Grant Assurance No. 29, why has C29 continued to receive both federal (FAA) and state (Wisconsin Department of Transportation, Bureau of Aeronautics) funding since 2002? We understand that a 2008 ALP is in existence, but it never received FAA approval.

According to the FAA, because Wisconsin has been designated as an Aviation Block Grant State, the State of Wisconsin is responsible for FAA Grant Assurance Compliance as follows:

### **FAA Airports, Assurances, Aviation Block Grant Program**

#### **General**

These assurances are required to be submitted as Part III of the three-part application forms by States applying to participate in the State block grant program under Title 49, United States Code, section 47128, and Title 14 Code of Federal Regulations, Part 156. Participating States shall comply with these assurances in the performance of any grant agreement executed as a result of this application.

...

#### **5. Compliance Responsibilities.**

The State shall take steps to enforce its agreement with each airport owner benefiting from the block grant program if noncompliance with the terms of the agreement is evident. This compliance responsibility shall be assumed by the FAA at the termination of the block grant program, or as otherwise agreed to by the State and the FAA...


[[https://www.faa.gov/airports/aip/grant\\_assurances/media/aip-state-block-grant-assurances.pdf](https://www.faa.gov/airports/aip/grant_assurances/media/aip-state-block-grant-assurances.pdf)]

We are requesting a written explanation as to why FAA Grant Assurance *non*-compliance has continued to be allowed from 2002 to the present at Morey Airport (C29)?

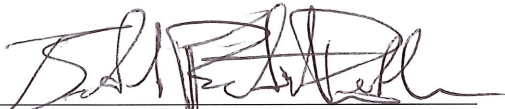
Thank you in advance for your prompt attention to this matter. We look forward to receiving your reply within the next two weeks.


Sincerely,


Town of Middleton Board of Supervisors

By:   
Cynthia Richson, Chair

By:   
Richard Oberle, Supervisor, Seat #1

By:   
Brent Renteria, Supervisor, Seat #2

By:   
Denise Schmidt, Supervisor, Seat #3

By:   
Tom Stemrich, Supervisor, Seat #4

Cc: Rebecca B. MacPherson, Regional Administrator, Federal Aviation Administration,  
Great Lakes Region; [Rebecca.MacPherson@faa.gov](mailto:Rebecca.MacPherson@faa.gov)

Governor Tony Evers; [EversInfo@wisconsin.gov](mailto:EversInfo@wisconsin.gov)

Maggie Gau, Governor Evers Chief of Staff; [Maggie.gau@wisconsin.gov](mailto:Maggie.gau@wisconsin.gov)

David Greene, Wisconsin Department of Transportation, Bureau of Aeronautics;  
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Jim Pulvermacher, Town of Springfield, Town Board Chair;  
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