

Clark County Department of Aviation Surplus Land Sale Policy

Policy Number: Disposal-2.0

Effective Date: April 19, 2022

Revised: February 24, 2022

Subject: DOA Surplus Land Sale Policy

I. SUMMARY

Clark County Department of Aviation (DOA) has an inventory of vacant land that is not needed for current or projected airport operational purposes. This land has been identified by DOA as surplus property available for disposal. For the purposes of this policy, the surplus land is divided into two categories based on how the land was originally acquired: Cooperative Management Area (CMA) Land and Non-CMA Land. Each category has specific regulations pertaining to the distribution and/or utilization of gross proceeds resulting from the disposal of the land.

II. BACKGROUND

- A. All land acquired and disposed of by DOA is subject to uses compatible with airport operations. DOA must retain adequate property rights and apply development restrictions, through a recorded easement, deed restriction, etc., on all property sold to ensure compatible land use.
- B. Non-CMA Land:
 - 1. DOA completed its first noise compatibility program for Harry Reid International Airport in 1988/1989. This program followed the requirements and guidelines established by the Federal Aviation Regulation, Part 150 – Airport Noise Compatibility Planning. Noise contours surrounding Harry Reid International Airport were established and the definitions for compatible and incompatible uses within each contour were defined. Clark County utilizes the 60 decibel, A-weighted, day-night annual average noise level (60 dB DNL) contour and higher for land use compatibility planning.
 - 2. Over the past three decades, DOA has worked diligently employing various measures, and has spent tens of millions of dollars, to minimize incompatible uses within these noise contours. Efforts included mitigation of existing incompatible development and prevention of future development that would introduce additional incompatible uses. The Airport Environs Overlay District (AEOD) was adopted by the Board of County Commissioners (BCC) and incorporated into the Clark County Development Code and the Noise Attenuation Construction

Standards of the Clark County Building Code in 1986. The most recent amendments to the AEOD were adopted in 2008.

3. Noise compatibility programs completed over the years identified land under private ownership, within the identified significant noise contours that was either developed with incompatible uses or which had the potential to be developed with incompatible uses, around Harry Reid International Airport. These properties have been a mix of developed and vacant land. DOA utilized Airport Improvement Program (AIP) grant and Passenger Facility Charge (PFC) program funds from the Federal Aviation Administration (FAA) to acquire such properties under willing buyer-willing seller programs as part of noise mitigation efforts. These properties are referred to as “noise lands.” The FAA requires airports to dispose of noise lands as soon as practicable when they are no longer needed for noise compatibility purposes, subject to reservation of adequate property rights to preclude incompatible land use.¹
4. All remaining property owned by DOA and covered under this Section B was purchased outright with non-restricted DOA funds for various reasons.
5. It is important to note that airport sponsors must comply with federal grant obligations if federal money has been invested in their airport as is the case with Harry Reid International Airport.² Therefore, the Non-CMA Land is subject to Grant Assurance No. 31, entitled Disposal of Land.

C. CMA Land

1. In 1992, Clark County and the US Department of the Interior – Bureau of Land Management (BLM) entered into the Interim Cooperative Management Agreement (1992 Agreement) to prevent the BLM-administered vacant federal land within the boundary of the 60 dB DNL and higher noise contours as shown in Exhibit 1 to the 1992 Agreement from being used for incompatible development. Subsequently, Congress passed the Southern Nevada Public Land Management Act of 1998 (SNPLMA)³ providing for ownership of remaining vacant federal land within the CMA to be transferred to Clark County. In 1999, the transfer of approximately 5,230 acres of property from the USA to Clark County was completed. All CMA Land resides within the SNPLMA disposal boundary.

¹ FAA Airport Sponsor Assurances dated February 2020 and codified at 49 U.S.C. § 47107(c).

² 49 U.S.C. § 47101, sets forth assurances that FAA must include in every grant agreement as the airport sponsor's conditions for receiving federal financial assistance.

³ Public Law 105-263.

2. On December 19, 2000, Clark County adopted the Property Disposal Program for the CMA Properties. Under this program, DOA assembled large areas of land for commercial development within the CMA. This disposal program was retired in 2006.
3. SNPLMA requires that fair market value be received for CMA Land conveyances and the gross proceeds be distributed as follows: 85% to the Special Account, 5% to the State of Nevada for the general education program, and the remainder, after any costs of sale not paid by the successful bidder to DOA for airport development and the noise compatibility program. On October 17, 2004, Clark County and BLM entered into a Memorandum of Agreement that defined the methods and procedures to be used for CMA Land conveyances subject to SNPLMA.

III. POLICY STATEMENT

- A. This document describes the responsibilities, policies, and procedures to be followed by Clark County as they relate to the disposal of DOA surplus land, which will be by sale at public auction to private parties at not less than fair market value. DOA may withdraw the surplus status on parcels identified in this policy prior to disposal should an operational need to retain the property arise or for any other reason. Parcels may require easements, dedications, parcel mapping, etc. prior to disposal. It is understood that parcel numbers may change because of these activities. From time to time, DOA may identify additional parcels as surplus to be disposed of in accordance with this policy. Also, Clark County staff may focus efforts on disposal of parcels in specific areas.
- B. Clark County will follow all applicable federal law, Nevada Revised Statutes (NRS) and Clark County Ordinances related to the proper sale of surplus property. All land sales to private parties will be handled by Real Property Management (RPM) and conducted by public auction. Auctions will be held periodically, and notices will be published in accordance with NRS to advertise the auction dates and parcel numbers. Any property for auction shall be listed on the DOA prior to being auctioned. Parcels will be scheduled for the first available auction once all steps in the process have been completed. Priority shall be given to those parcels within the disposal area(s) determined by staff.
- C. Multiple parcels may be appraised, advertised for sale, and auctioned as a single unit at the discretion of the Director of RPM.
- D. In addition to the sale price of the parcel, the successful bidder shall also be responsible for paying all costs associated with the auction and sale of the property, including but not limited to escrow fees, closing costs, title insurance premiums, real property transfer tax, other taxes, appraisal fees, publication costs, commissions, and loan costs, if applicable.

E. Disposal of Land

1. In accordance with NRS 244.281(1)(c), SNPLMA and the Memorandum of Agreement between Clark County and BLM, dated October 17, 2004, CMA Land conveyances to private parties for any type of use require fair market value to be received.
2. In accordance with NRS 244.281(1)(c) and FAA Grant Assurance No. 31, all Non-CMA Land conveyances require fair market value to be received.

IV. PROCEDURE FOR SALE OF SURPLUS LAND TO PRIVATE PARTIES

- A. DOA will maintain a land surplus interest list to track the ongoing interest of private parties in purchasing DOA surplus land. The information will be collected via interest forms that private parties may submit to DOA at any time. The data collected will assist staff in measuring the demand for surplus land and identifying possible areas of sale for future auctions.
- B. Before staff finalizes the selection of parcels for auction, private parties will have the opportunity to nominate surplus parcels during the nomination period for a specific auction. Nominating a surplus parcel does not guarantee it will be included in the auction. At the discretion of the Director of RPM, a nominated parcel may be auctioned with other parcels of Clark County's choosing as a single unit.
- C. To nominate a surplus parcel for disposal by sale at public auction, private parties must submit both a nomination application and a non-refundable filing fee⁴ in the amount of \$100.00. Payment may be tendered by check or money order made payable to "Clark County Department of Aviation" and submitted to the address listed on the nomination application. Nomination applications received go through the following process:
 1. Nomination application review by DOA to verify the parcel is still available for sale.
 2. If the parcel is available, DOA will forward the nomination application for RPM staff review. If a determination is made to include the nominated parcel in the auction, DOA will collect a research fee⁵ from the applicant. This fee ranges from \$1,500 to \$15,000 depending on the size of the parcel. If a sale results from this nomination application process, the research fee will be returned to the nominating party upon closing and execution of all required documents. If the parcel is taken to auction and does not sell, the research fee will not be refunded. Should

⁴ Clark County, Nevada, Code of Ordinances 3968, § 10, (2011), Chapter 20.15 Non-Aviation Real Estate Sale or Lease, 20.15.010(c)

⁵ Clark County, Nevada, Code of Ordinances 3968, § 10, (2011), Chapter 20.15 Non-Aviation Real Estate Sale or Lease, 20.15.010(d)

staff elect not to take the parcel to auction at any point in the process; the research fee will be refunded to the nominating party.

3. Nominated parcels selected for sale at auction will be listed on the DOA website.

D. Surplus parcels selected for sale at auction, including accepted nominations, will undergo the following process:

1. Staff review that includes, at a minimum:
 - a. Notify Clark County Department Heads, Elected Officials, and other local governmental agencies of the parcels and providing them an opportunity to advise if there is a public need for the property.
 - b. Present the parcels at the Long Range Planning meeting.
2. Staff will proceed with the next steps for the surplus parcels that were approved during the review phase:
 - a. Research to determine if any dedications, easements, parcel mapping, etc. are required prior to selling the property.
 - b. Order a title report.
 - c. Order a Phase I Environmental Site Assessment report.
 - d. In accordance with NRS 244.2795, order two appraisals to establish the fair market for the parcel(s) and review the appraisals for accuracy. The appraisers must be instructed to assume the parcel(s) is encumbered by the applicable covenants, conditions, and restrictions.
 - e. After finalizing parcel selection for the auction, post the parcel information to the DOA website.
 - f. Prepare and present a Resolution of Intent to Sell Real Property at Public Auction (ROI) containing all terms of the sale for BCC approval and adoption at a regularly-scheduled meeting in accordance with NRS 244.281 and NRS 244.282.
 - g. Prepare and submit all advertising in accordance with NRS chapter 244.282. Advertising will include a comprehensive map of all property scheduled for the specific auction date.
 - h. Post the Resolution of Intent to Sell Real Property at Public Auction in three public places as required by NRS 244.282.
 - i. If applicable, collect any written bids and submit them to the BCC Chairman at the commencement of the auction.
 - j. Prepare and present a Resolution of Acceptance and Sale of Real Property (ROA) for BCC approval and adoption in accordance with NRS 244.281 and NRS 244.282.

- k. Open/close escrow and record the required documents according to the terms in the ROI, ROA and any other related agreements approved by the BCC. The title company used for surplus land sales transactions will be determined by Clark County.

V. DOA SURPLUS PARCELS – GENERAL DESCRIPTION

The current inventory of DOA surplus parcels is available online at:

<https://www.harryreidairport.com/Business/Forms/PropertyPurchaseInterest/WithMap>

VI. DEFINITIONS

- A. CMA Land - The land within certain boundaries shown in Exhibit 1 to the 1992 Agreement that was (1) originally in federal ownership then conveyed to the County, as authorized by Section 3(g) of the SNPLMA, by patent containing restrictions against airport-incompatible uses and requiring that any sale, lease or other conveyance be made for fair market value and for payment of proceeds in accordance with Section 4(g)(4) of the SNPLMA (Patent-Restricted CMA Land); or (2) conveyed by private parties to the County by deeds containing no express restrictions (Deed CMA Land) in exchange for other Patent-Restricted CMA Land.
- B. County's Designated Representative (CDR) - The BCC has authorized the Director of RPM or its designee to sign all documents necessary to complete the transactions under this policy and serve as the CDR for all approvals and actions within this policy unless otherwise stated.
- C. Grant Assurance No. 31 - Federal grant obligation for airports that have received federal money, requiring the airport to:
 1. Dispose of noise land at no less than the fair market value at the earliest practical time after the land is no longer needed for noise compatibility purposes.
 2. Retain an interest (easement, deed restriction, etc.) in the land disposed of to ensure future compatible land use.
 3. Apply the gross proceeds from land disposals in accordance with 49 U.S.C. § 47107.
- D. Non-CMA Land - Property available for disposal that is subject to federal grant obligations, specifically Grant Assurance No. 31. This property is not subject to the provisions of the SNPLMA but uses on the land must still be restricted to prevent development which is incompatible with airport operations.

VII. SUMMARY OF ROLES AND RESPONSIBILITIES RELATED TO THE POLICY

A. Interested Private Parties/Nomination Applicants

1. Exercise due diligence investigating the surplus parcel to determine its suitability for any particular use and be knowledgeable of the zoning and planned land use. Understand that certain parcels are in areas with limited infrastructure including, but not limited to sewer access and/or capacity, which may affect the development of the property. Clark County is selling surplus parcels in “as-is” condition and under the assumption that the successful bidder’s acquisition of the property is based upon the bidder’s independent investigation. Clark County makes no representations or warranties regarding the physical condition or stability of the surplus parcels, the existence of hazardous materials on or under the surface or the suitability of the surplus parcels for the bidder’s purposes or for any other purpose.
2. Review the applicable covenants, conditions, and restrictions for the subject parcel.
3. Submit interest forms.
4. Visit the DOA website for notice of the nomination periods.
5. Submit a nomination application and filing fee to DOA.
6. If the parcel is available for nomination, submit the research fee to DOA.
7. Submit a written, oral, or electronic bid once the bidding period opens, if they wish to buy the subject parcel.
8. Successful bidders shall pay for the cost of the property appraisals, advertising fees, and any other applicable fees as part of the closing costs.

B. DOA

1. Collect interest forms and maintain ongoing land surplus interest list.
2. Review nomination applications to confirm availability of the parcels.
3. Identify whether the surplus parcel land for sale is CMA Land or Non-CMA Land and provide applicable covenants, conditions, and restrictions to RPM.
4. Collect nomination application filing and research fees from private party applicants.
5. Submit auction list recommendations to RPM.
6. Perform updates to the real estate section of its website to list selected surplus parcels, nomination periods and auction dates.
7. Order and review Phase I Environmental Site Assessment reports.

C. RPM

1. Determine auction date and nomination period.
2. Select surplus parcels for sale by public auction.
3. Order a title report.
4. Process any easements, dedications, parcel mapping, etc. as may be required to prepare the surplus land for sale by public auction.
5. Order and review appraisals.
6. Advise elected officials, department heads, other governmental entities, and the Long Range Planning Committee which property is proposed for sale.
7. Manage consultants and vendors as needed.
8. Prepare and present agenda items at the BCC meetings.
9. Prepare advertising in accordance with NRS.
10. Collect sale proceeds.
11. Collect appraisal, advertising, and other applicable fees from successful bidders.
12. Open and close escrow.
13. Ensure applicable covenants, conditions and restrictions are recorded against outgoing parcels.

Related Information

Clark County Code, Title 20, Chapter 20.15, Section 20.15.010, dated July 19, 2011
FAA Airport Sponsor Assurances, dated February 2020
Interim Cooperative Management Agreement, dated November 4, 1992
Interim Disposal Plan, dated December 1999
Property Disposal Program for Cooperative Management Area (CMA) Properties, dated December 2000
Management of Acquired Noise Land: Inventory-Reuse-Disposal, FAA, dated June 2014
Memorandum of Agreement between Clark County and Bureau of Land Management, dated October 17, 2004
Southern Nevada Public Land Management Act of 1998, dated October 19, 1998