

## ACQUISITION OF AVIGATION EASEMENT-SALES ASSISTANCE OPTION

### A. ASSURANCE OF FAIR MARKET VALUE IN VOLUNTARY SALE

Under the provisions of this option hereof, a property owner within the noise impact area who would prefer to voluntarily sell his/her home and move to another location may do so and receive financial assistance, in exchange for the grant of an avigation easement. A property owner choosing the voluntary Sales Assistance Option will be guaranteed cash, subject to the limits in section H.2 below, to offset any shortfall between the actual sales price and the fair market value of the house.

### B. ELECTION TO PARTICIPATE

A property owner who chooses to grant an aviation easement in return for the voluntary sale of his/her house with a fair market-value sales assistance guarantee must first execute a *Request To Participate-Sales Assistance Option*.

### C. FAIR MARKET VALUE

As used in these guidelines, fair market value (FMV) is that value assigned in the subject property by an independent Oklahoma Certified General Appraiser or Oklahoma Certified Residential Appraiser working in behalf of the selling property owner. The appraisals conducted in this program option shall consider the property as if it is located away from Airport noise impact areas. **This requirement shall be included in the instructions to appraisers to insure that any negative impact of aviation noise is not a factor in determining the value of the property to be sold.**

### D. PROPERTY OWNER SELECTION OF APPRAISER

The appraiser shall be selected by the selling property owner from a list of pre-qualified independent Oklahoma Certified General Appraisers and Oklahoma Certified Residential Appraisers. **The selling property owner (Seller) shall be responsible for the cost of the appraiser and resulting appraisal.** The independent appraiser shall work directly and exclusively for the selling property owner and shall make value determinations in accord with Sub-Part C above.

### E. PRE-QUALIFICATION OF APPRAISERS AND REVIEW APPRAISERS

Oklahoma Certified General Appraisers or Oklahoma Certified Residential Appraisers whose offices are located in and are doing business in Tulsa County will be notified by certified mail of the opportunity to perform appraisal and/or appraisal review services as part of the NCP Update. Interested appraisers will be invited to submit expressions of interest and their qualifications to the NCP Project Manager.

The NCP Project Manager will thoroughly review the licensing, experience, education, training and other qualifications of the appraisers and review appraisers responding to the invitation. Appraiser qualifications shall be consistent with the level of difficulty of the appraisal task as defined herein. A listing of pre-qualified appraisers and review appraisers will be published by

the NCP Project Manager. Selling property owners shall select an appraiser from this published list.

### **1. INELIGIBILITY**

Appraisers who in the 24 month period immediately preceding March 1,2001, have, in any litigation involving the State of Oklahoma, any of its agencies or political subdivisions or other entity vested with the power of eminent domain:

- a. Prepared appraisals for either plaintiff or defendant,
- b. Acted as witness providing written or oral testimony for either plaintiff or defendant, or
- c. Served as an appointed commissioner for the court in a condemnation proceeding

shall not be eligible for pre-qualification as an appraiser or review appraiser under the NCP Update.

### **2. CONFLICT OF INTEREST**

No appraiser or review appraiser shall have any interest, direct or indirect, in the real property being appraised under the NCP Update that would in any way conflict with the preparation or review of the appraisal. Compensation for conducting an appraisal shall not be based upon the amount of the valuation.

## **F. APPRAISALS**

The property of participating property owners shall be appraised in compliance with all requirements of the federal Uniform Relocation Assistance and Real Properties Acquisition Policy Act of 1970, as amended, and all applicable FAA laws and regulations, specifically FAA Order 5100-37A and FAA Advisory Circular 150-5100-17.

## **G. REVIEW OF APPRASIALS**

### **1. PURPOSE**

Review appraisers are employed by governmental entities under the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, to examine property appraisals to assure they meet applicable appraisal requirements and, prior to the formal acceptance of any appraisal, seek necessary corrections or revisions.

All appraisals prepared under the provisions of this option hereof, shall be subject to review by a review appraiser pre-qualified pursuant to Sub-Part E above.

### **2. SELECTION OF REVIEW APPRAISER**

The appraiser selected by the selling property owner pursuant to Sub-Part D above, upon completion of his/her appraisal report, shall recommend a review appraiser from the listing of pre-qualified review appraisers compiled and provided by the NCP Project Manager.

### **3. CONCURRENCE IN SELECTION**

The name of the recommended review appraiser shall be submitted to the NCP Project Manager for the concurrence of its FAA-Approved Review Appraiser. In the event the FAA-Approved Review Appraiser shall not concur, the appraiser shall submit a substitute recommendation(s) from the list of pre-qualified review appraisers.

#### **a.) RESTRICTION ON FAA-APPROVED REVIEW APPRAISER**

The FAA-Approved Review Appraiser employed by the NCP Project Manager for the purpose of concurrence as provided in sub part G.3 above is hereby specifically prohibited from performing any appraisals or reviews of appraisals under the NCP Update.

### **4. APPRASIAL REVIEW**

The selected review appraiser shall examine the appraisal to assure that it meets applicable appraisal requirements, including § 24.103 of the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (CFR49, Part 24), as amended, and shall, prior to acceptance, seek necessary corrections and revisions.

The review appraiser's certification of the recommended or approved value of the property being sold shall be set forth in a signed statement which identifies the appraisal reports reviewed and explains the basis for such recommendation or approval. Reviewed appraisals, along with their certification statements shall be forwarded to the property owner, appraiser, real estate professional or lender, as appropriate, with copies provided to the NCP Project Manager.

## **H. SECOND APPRAISALS**

### **1. REJECTION OF FIRST APPRAISAL BY HOMEOWNER**

In the event the first appraisal is rejected by the Seller, the Seller may select a second pre-qualified appraiser. In such instance, the full cost of the second appraisal shall be borne by the Seller.

### **2. REJECTION OF FIRST APPRAISAL BY REVIEW APPRAISER**

In the event the first appraisal is not accepted by the review appraiser, the Seller may select a second pre-qualified appraiser. In this circumstance, the full cost of the second appraisal shall be born by the NCP.

## **I. REVIEW OF SECOND APPRAISALS**

If the reviewing appraiser is unable to approve or recommend approval of the second appraisal as an adequate basis for the establishment of the FMV, the reviewing appraiser may develop appraisal documentation in accordance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, to support an approved or recommended value. Upon development of said documentation and the resulting approved or recommended value, the review appraiser shall follow the procedure set forth in Sub-Part G.4 above.

## **J. MARKETING, SALE AND CLOSING**

Each participating property owner under this option hereof shall execute a listing contract with the Oklahoma Licensed Real Estate Broker or Sales Associate of his/her choice to initiate the marketing and sale of the property.

### **1. INITIAL ASKING PRICE**

The initial asking price for the property shall be the FMV as determined by the appraiser and certified by the review appraiser pursuant to Sub-Parts E and G above.

### **2. INITIAL MARKETING PERIOD**

The property must be listed for sale for the initial period of one hundred eight (180) days and must sell for no less than seventy percent (70%) of the FMV. From the 1<sup>st</sup> day through the 45<sup>th</sup> day, the Seller may accept an offer of ninety percent (90%) of FMV or greater. From the 46<sup>th</sup> day through 90<sup>th</sup> day, the Seller may accept an offer of eighty percent (80%) of FMV or greater. From the 91<sup>st</sup> day through the 135<sup>th</sup> day, the Seller may accept an offer of seventy-five percent (75%) of FMV or greater. From the 136<sup>th</sup> day through the 180<sup>th</sup> day, the Seller may accept an offer of seventy percent (70%) of FMV or greater. If an offer is not accepted by the end of the 180<sup>th</sup> day, the property owner will have the right to renew his/her participation in the Sales Assistance Option.

If the property owner does not choose renewal, he/she may choose another NCP option for which he/she is eligible.

### **3. RENEWAL OF SALES ASSISTANCE OPTION**

Upon renewal of the Sales Assistance Option, the property must be listed for sale on the market for a period of one hundred eight (180) days and must sell for no less than fifty percent (50%) of the FMV. From the 1<sup>st</sup> day of the renewal period through the 45<sup>th</sup> day, the Seller may accept an offer of sixty-five percent (65%) of FMV or greater. From the 46<sup>th</sup> day through the 90<sup>th</sup> day, the Seller may accept an offer of sixty percent (60%) of FMV or greater. From the 91<sup>st</sup> day through the 135<sup>th</sup> day, the Seller may accept an offer of fifty-five percent (55%) of FMV or greater. From the 136<sup>th</sup> day through the 180<sup>th</sup> day, the Seller may accept an offer of fifty percent (50%) of FMV or greater. If an offer is not accepted by the end of the 180<sup>th</sup> day, the property owner may again opt for renewal of participation in the Sales Assistance Option.

The property owner may renew participation in the Sales Assistance Option after completion of each 180-day renewal period throughout implementation phase of the NCP Update. Upon completion of the implementation of the NCP Update, funding for this NCP program option will no longer be available, unless otherwise provided by TAIT.

If the property owner does not choose renewal at the completion of any 180-day renewal period, he/she may choose another NCP option for which he/she is eligible through the implementation phase of the NCP Update. Upon completion of the implementation of the NCP Update, funding for other NCP program options will no longer be available, unless otherwise provided by TAIT.

#### 4. LIMITS ON SALES ASSISTANCE GUARANTEE

In marketing periods subsequent to the first renewal period, after a marketing period of three hundred sixty (360) days, the property owner shall not be restricted as to the acceptance of any bona fide offer in relation to the established FMV of the property. **In no event, however, shall the Sales Assistance cash guarantee under the provisions of this option hereof exceed fifty percent (50%) of the FMV.**

#### 5. CLOSING OF THE SALE

At the closing of the sale, the selling property owner will execute an avigation easement. The easement will become a permanent deed restriction, and the property owner will receive a check from the NCP for the difference between the actual sales price and the FMV as defined in Part C above. In addition, the commission due the Real Estate Broker and/or Sales Associate, not to exceed seven percent (7%) of the actual sale price, and all closing costs normally allocated to the Seller in a standard real estate closing statement will be paid and/or reimbursed by the NCP.

#### K. INCOME MAY BE TAXABLE

Payments to property owners for the difference between the actual sales price and the FMV may be taxable income. Internal Revenue Service 1099 Forms will be issued to each participating property owner. Property owners are advised to confer with a professional tax consultant for a determination.